

By: Senator(s) Blount

To: Public Property

SENATE BILL NO. 2472

1 AN ACT TO CREATE SECTION 29-5-2.2, MISSISSIPPI CODE OF 1972,
 2 TO AUTHORIZE THE BUREAU OF BUILDING GROUNDS AND REAL PROPERTY
 3 MANAGEMENT OF THE DEPARTMENT OF FINANCE AND ADMINISTRATION TO ACT
 4 AS THE CENTRAL LEASING AGENT FOR ALL STATE AGENCIES THAT NEED
 5 SPACE IN ANY STATE OR NONSTATE-OWNED BUILDING AND TO PRESCRIBE
 6 THOSE RESPONSIBILITIES; TO DEFINE AND DESCRIBE THE AREA TO BE
 7 KNOWN AS THE "CAPITOL COMPLEX"; TO AMEND SECTIONS 29-5-2, 37-3-5,
 8 41-4-7, 41-73-27, 43-13-116, 43-33-717, 45-11-7, 49-17-713,
 9 49-19-5, 51-8-29, 51-8-31, 51-9-121, 51-11-11, 51-11-13,
 10 51-13-111, 51-15-119, 55-24-9, 57-1-23, 59-5-35, 59-5-39,
 11 59-7-211, 59-17-13, 65-1-8, 65-1-17, 69-7-109, 69-27-35, 71-3-85,
 12 73-7-3, 73-17-7, 73-39-57, 99-18-13 AND 99-39-113, MISSISSIPPI
 13 CODE OF 1972, IN CONFORMITY THERETO; AND FOR RELATED PURPOSES.

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

15 **SECTION 1.** The following provision shall be codified as
 16 Section 29-5-2.2, Mississippi Code of 1972:

17 29-5-2.2. (1) In enacting this section, it is the intent of
 18 the Legislature that:

19 (a) The Bureau of Building, Grounds and Real Property
 20 Management of the Department of Finance and Administration
 21 (bureau) regulate and supervise the process of acquiring and
 22 granting leasehold interests in office space for state agencies;



23 (b) State agencies be housed, whenever possible, in
24 state-owned buildings if space is available; and

25 (c) If such space is unavailable, state agencies be
26 housed in the most efficient and cost-effective means possible in
27 privately owned buildings.

28 (2) This section applies to all state agencies as defined in
29 Section 31-7-1, except for the military department, universities
30 or community colleges. After January 1, 2014, any state agency
31 shall:

32 (a) Obtain the bureau's approval before entering,
33 renewing, or otherwise negotiating an agreement to lease,
34 lease-purchase, or purchase a building for office space, from or
35 to any individual or entity; and

36 (b) Upon the bureau's decision and consistent with
37 subsection (4), any state agency shall execute and enter an
38 agreement to lease space in available state-owned buildings. The
39 leases may be upon such conditions, for such terms, for such
40 rentals and may contain any other provisions as determined by the
41 bureau and the state agency involved to be appropriate and in the
42 best interests of all concerned.

43 (3) In addition to the duties conferred under Section
44 29-5-2, the bureau shall have the following powers and duties:

45 (a) To act as the leasing agent for space for all state
46 agencies, acting either as lessor or lessee;



47 (b) To act as the agent for leasing space in all
48 state-owned buildings;

49 (c) Upon the effective date of this act, to confirm the
50 needs of any state agency requesting space, locate an appropriate
51 space, negotiate the lease, lease-purchase or purchase on the
52 agency's behalf, and maintain records of all such leases;

53 (d) To adopt standards for the use and allocation of
54 space to state agencies. At a minimum, these standards shall
55 provide specifications related to a state agency's work rooms or
56 stations, private offices, conference rooms, reception areas,
57 equipment rooms, vaults, storage areas, warehouses, support
58 spaces, and the necessary space to ensure adequate and effective
59 circulation within and access to all state agencies, including
60 parking and traffic patterns;

61 (e) To identify opportunities for cost efficiencies by
62 recommending the consolidation of more than one (1) state
63 agencies' office space within one (1) building if the bureau
64 determines that such consolidation will result in lower rental
65 costs for such agencies; and

66 (f) To adopt a standard lease form to be used for
67 leases of office space, buildings, structures, parking lots or
68 grounds by state agencies from private individuals or entities.
69 The standard lease form shall contain (i) all terms and conditions
70 deemed necessary based on the type and purpose of the leased
71 property; (ii) such terms and conditions that are as uniform as



72 possible; and (iii) a lease term that expires on March 31, June
73 30, September 30 or December 31.

74 (4) Unless a state agency provides direct public access
75 services on a county or regional basis, any agency located in
76 Hinds, Madison or Rankin Counties shall be housed in a facility
77 within the Capitol Complex, as defined in Section 29-5-2. The
78 bureau may waive the requirements of this subsection in cases
79 where relocation within the Capitol Complex will (a) significantly
80 impair or restrict public access to the agency's services or (b)
81 increase the agency's rental costs, excluding moving expenses,
82 being paid as of the effective date of this act.

83 (5) Any state agency shall submit a written request for
84 leased space to the bureau ninety (90) days before the date the
85 space is needed. The agency's request shall list the following:

86 (a) Any information required from the agency under
87 Section 27-104-7(c);

88 (b) Anticipated moving expenses;

89 (c) Positions to occupy the space and the functions of
90 each position by state employment grade;

91 (d) Special requirements and the function of those
92 requirements; and

93 (e) Any other information that will affect the planning
94 of the space needs and the agency's efficient operation.



95 (6) The bureau shall use a Request for Proposal (RFP)
96 selection process when an agency requests to lease space in a
97 privately owned building when state-owned space is not available.

98 (a) The bureau shall advertise such leasing needs
99 through its website in accordance with Section 27-104-7 and shall
100 provide RFP packages to any property owners or managers interested
101 in submitting a proposal.

102 (b) For any agency located within Hinds, Madison, or
103 Rankin counties subject to subsection (4) of this section, unless
104 a proposal to house the agency in a facility within the Capitol
105 Complex will lower the agency's rental payments from the amount
106 then being paid, the lease shall be awarded to the lowest and best
107 proposal received.

108 (7) If the agency requests the lease document proposed by
109 the bureau to be reconsidered, the agency shall have an
110 opportunity to appear before the Public Procurement Review Board
111 at the next regular meeting to explain its objections and any
112 requested modification. After hearing from the agency, the Board
113 may modify the lease.

114 (8) All leases referred to in this section and all covenants
115 and agreements contained therein shall be binding in all respects
116 upon the parties thereto and their successors, and all the
117 provisions thereof shall be enforceable by mandamus and other
118 remedies provided by law. Nothing in this section shall be
119 construed to terminate existing leases.



120 **SECTION 2.** Section 29-5-2, Mississippi Code of 1972, is
121 amended as follows:

122 29-5-2. The duties of the Department of Finance and
123 Administration shall be as follows:

124 (a) (i) To exercise general supervision and care over
125 and keep in good condition the area to be known as the "Capitol
126 Complex" and more particularly described as follows:

127 Properties Bounded:

128 TO THE NORTH by Lakeland Drive to Old Canton Road, and

129 Taylor Street;

130 TO THE WEST by the Canadian National Railway;

131 TO THE SOUTH by Pascagoula Street to Jefferson Street, and
132 Pearl Street to Interstate 55;

133 TO THE EAST by Interstate 55.

134 (ii) To exercise general supervision and care over
135 and keep in good condition the following state property located in
136 the City of Jackson: the New State Capitol Building, the Woolfolk
137 State Office Building, the Carroll Gartin Justice Building, the
138 Walter Sillers Office Building, the War Veterans' Memorial
139 Building, the Charlotte Capers Building, the William F. Winter
140 Archives and History Building, the Ike Sanford Veterans Affairs
141 Building, the Old State Capitol Building, the Governor's Mansion,
142 the Heber Ladner Building, the Burroughs Building, the Robert E.
143 Lee Office Building, the Robert E. Lee Parking Garage, the Manship
144 House Restoration and Visitor Center, the State Records Center,



145 the Robert G. Clark, Jr. Building, and all other properties
146 acquired in the same transaction at the time of the purchase of
147 the Robert E. Lee Hotel property from the First Federal Savings
148 and Loan Association of Jackson, Mississippi, which properties are
149 more particularly described in a warranty deed heretofore executed
150 and delivered on April 22, 1969, and filed for record in the
151 Office of the Chancery Clerk of the First Judicial District of
152 Hinds County, Mississippi, located in Jackson, Mississippi, on
153 April 25, 1969, at 9:00 a.m., and recorded in Deed Book No. 1822,
154 Page 136 et seq., the Central High Building, 101 Capitol Centre
155 and the properties described in Section 1 of Chapter 542, Laws of
156 2009.

157 (* * *iii) To exercise general supervision and
158 care over and keep in good condition the Dr. Eldon Langston Bolton
159 Building located in Biloxi, Mississippi.

160 (* * *iv) To exercise general supervision and
161 care over and keep in good condition the State Service Center,
162 located at the intersection of U.S. Highway 49 and John Merl Tatum
163 Industrial Drive in Hattiesburg, Mississippi.

164 (* * *y) To exercise general supervision and care
165 over and keep in good condition any property purchased,
166 constructed or otherwise acquired by the State of Mississippi for
167 conducting state business and not specifically under the
168 supervision and care by any other state entity, but which is



169 reasonably assumed the department would be responsible for such,
170 as approved by the Public Procurement Review Board.

171 (b) Consistent with Section 29-5-2.2, to assign
172 suitable office space for the various state departments, officers
173 and employees who are provided with an office in any of the
174 buildings under the jurisdiction or control of the Department of
175 Finance and Administration. However, the assignment of space in
176 the New Capitol Building shall be designated by duly passed
177 resolution of the combined Senate Rules Committee and the House
178 Management Committee, meeting as a joint committee, approved by
179 the Lieutenant Governor and Speaker of the House of
180 Representatives. A majority vote of the members of the Senate
181 Rules Committee and a majority vote of the members of the House
182 Management Committee shall be required on all actions taken,
183 resolutions or reports adopted, and all other matters considered
184 by the full combined committee on occasions when the Senate Rules
185 Committee and the House Management Committee shall meet as a full
186 combined committee.

187 (c) To approve or disapprove with the concurrence of
188 the Public Procurement Review Board, any lease or rental
189 agreements by any state agency or department, including any state
190 agency financed entirely by federal and special funds, for space
191 outside the buildings under the jurisdiction of the Department of
192 Finance and Administration, including space necessary for parking
193 to be used by state employees who work in the Woolfolk Building,



194 the Carroll Gartin Justice Building or the Walter Sillers Office
195 Building. In no event shall any employee, officer, department,
196 federally funded agency or bureau of the state be authorized to
197 enter a lease or rental agreement without prior approval of the
198 Department of Finance and Administration and the Public
199 Procurement Review Board.

200 The Department of Finance and Administration is authorized to
201 use architects, engineers, building inspectors and other personnel
202 for the purpose of making inspections as may be deemed necessary
203 in carrying out its duties and maintaining the facilities.

204 * * *

205 (d) To acquire by lease, lease-purchase agreement, or
206 otherwise, as provided in * * * Sections 27-104-107 and 29-5-2.2,
207 and to assign * * *, by lease or sublease agreement from the * * *
208 department, and with the concurrence of the Public Procurement
209 Review Board, to any state agency or department, including any
210 state agency financed entirely by federal and special funds,
211 appropriate office space in the buildings acquired.

212 **SECTION 3.** Section 37-3-5, Mississippi Code of 1972, is
213 amended as follows:

214 37-3-5. The State Department of Education is hereby charged
215 with the execution of all laws relating to the administrative,
216 supervisory and consultative services to the public schools and
217 agricultural high schools of the State of Mississippi. The State
218 Department of Education is also authorized to grant property to



219 public schools and agricultural high schools of the State of
220 Mississippi, consistent with the provisions of Section 29-5-2.2.

221 Subject to the direction of the State Board of Education as
222 provided by law, the administration, management and control of the
223 department is hereby vested in the State Superintendent of Public
224 Education, who shall be directly responsible for the rightful
225 functioning thereof.

226 **SECTION 4.** Section 41-4-7, Mississippi Code of 1972, is
227 amended as follows:

228 41-4-7. The State Board of Mental Health shall have the
229 following powers and duties:

230 (a) To appoint a full-time Executive Director of the
231 Department of Mental Health, who shall be employed by the board
232 and shall serve as executive secretary to the board. The first
233 director shall be a duly licensed physician with special interest
234 and competence in psychiatry, and shall possess a minimum of three
235 (3) years' experience in clinical and administrative psychiatry.
236 Subsequent directors shall possess at least a master's degree or
237 its equivalent, and shall possess at least ten (10) years'
238 administrative experience in the field of mental health. The
239 salary of the executive director shall be determined by the board;

240 (b) To appoint a Medical Director for the Department of
241 Mental Health. The medical director shall provide clinical
242 oversight in the implementation of evidence-based and best
243 practices; provide clinical leadership in the integration of



244 mental health, intellectual disability and addiction services with
245 community partners in the public and private sectors; and provide
246 oversight regarding standards of care. The medical director shall
247 serve at the will and pleasure of the board, and will undergo an
248 annual review of job performance and future service to the
249 department;

250 (c) To establish a Strategic Planning and Best
251 Practices Committee (committee), which shall consist of fifteen
252 (15) members as follows:

253 (i) Three (3) members of the State Board of Mental
254 Health;

255 (ii) The Chairman of the Department of Psychiatry
256 at the University of Mississippi Medical Center;

257 (iii) The Executive Director of the Division of
258 Medicaid in the Office of the Governor;

259 (iv) Five (5) appointees of the Attorney General
260 as follows:

261 1. One (1) director of a community mental
262 health center that is not a member of the Mississippi Association
263 of Community Mental Health Centers; and

264 2. Four (4) directors of community mental
265 health centers that are members of the Mississippi Association of
266 Community Mental Health Centers.

267 (v) Five (5) appointees of the Governor as
268 follows:



- 269 1. One (1) representative of a nonprofit
270 mental health advocacy group;
- 271 2. One (1) consumer or family member of a
272 consumer of mental health services;
- 273 3. One (1) representative from a separate,
274 private, nonprofit provider of a continuum of mental health
275 services;
- 276 4. Two (2) individuals knowledgeable in the
277 field of mental health and/or with experience in business
278 management or public administration.

279 All appointed members of the Strategic Planning and Best
280 Practices Committee shall be appointed to three-year terms and may
281 be reappointed.

282 The Department of Mental Health shall provide professional
283 and technical support to the committee, including the services of
284 the department's medical director, and its planning staff.
285 Additionally, the committee shall be authorized to seek grants
286 from public and private sources to conduct the necessary studies
287 and evaluations to support the committee in carrying out its
288 responsibilities. The committee may also seek the assistance of
289 the state institutions of higher learning, the State Department of
290 Health, the Division of Medicaid, the State Department of
291 Education, any community mental health center, and any other state
292 agency whose expertise may be helpful to the committee.



293 This paragraph (c) shall stand repealed from and after July
294 1, 2013;

295 (d) To develop a system of strategic planning for the
296 development of services for persons with mental illness, persons
297 with developmental disabilities and other clients of the public
298 mental health system. Such strategic planning program shall
299 require that the board, acting through the Strategic Planning and
300 Best Practices Committee, perform the following functions
301 respecting the delivery of services:

302 (i) Establish measures for determining the
303 efficiency and effectiveness of the services specified in Section
304 41-4-1(2);

305 (ii) Conducting studies of community-based care in
306 other jurisdictions to determine which services offered in these
307 jurisdictions have the potential to provide the citizens of
308 Mississippi with more effective and efficient community-based
309 care;

310 (iii) Evaluating the efficiency and effectiveness
311 of the services specified in Section 41-4-1(2);

312 (iv) Recommending to the Legislature by January 1,
313 2014, any necessary additions, deletions or other changes
314 necessary to the services specified in Section 41-4-1(2);

315 (v) Implementing by July 1, 2012, a system of
316 performance measures for the services specified in Section
317 41-4-1(2);



318 (vi) Recommending to the Legislature any changes
319 that the department believes are necessary to the current laws
320 addressing civil commitment;

321 (vii) Conducting any other activities necessary to
322 the evaluation and study of the services specified in Section
323 41-4-1(2);

324 (viii) Assisting in conducting all necessary
325 strategic planning for the delivery of all other services of the
326 department. Such planning shall be conducted so as to produce a
327 single strategic plan for the services delivered by the public
328 mental health system and shall establish appropriate mission
329 statements, goals, objectives and performance indicators for all
330 programs and services of the public mental health system. For
331 services other than those specified in Section 41-4-1(2), the
332 committee shall recommend to the State Board of Mental Health a
333 strategic plan that the board may adopt or modify;

334 (e) To set up state plans for the purpose of
335 controlling and treating any and all forms of mental and emotional
336 illness, alcoholism, drug misuse and developmental disabilities;

337 (f) To supervise, coordinate and establish standards
338 for all operations and activities of the state related to mental
339 health and providing mental health services. Nothing in this
340 chapter shall preclude the services of a psychiatric/mental health
341 nurse practitioner in accordance with an established nurse
342 practitioner/physician protocol. A physician, licensed



343 psychologist, psychiatric/mental health nurse practitioner in
344 accordance with an established nurse practitioner/physician
345 protocol, physician assistant, licensed professional counselor,
346 licensed marriage and family therapists, or licensed clinical
347 social worker shall certify each client's record annually after
348 seeing the client in person or by telemedicine, and more often if
349 medically indicated by physically visiting the client and
350 certifying same in the record. The board shall have the authority
351 to develop and implement all standards and plans and shall have
352 the authority to establish appropriate actions, including
353 financially punitive actions, to ensure enforcement of these
354 established standards, in accordance with the Administrative
355 Procedures Law (Section 25-43-1 et seq.). The regional community
356 mental health/intellectual disability centers shall comply with
357 all of the board's established standards that are applicable to
358 those centers, and the board may withhold any state funds that
359 otherwise would be allocated or paid to any of those centers that
360 does not comply with the board's established standards. This
361 paragraph (f) shall stand repealed on July 1, 2013;

362 (g) To enter into contracts with any other state or
363 federal agency, or with any private person, organization or group
364 capable of contracting, if it finds such action to be in the
365 public interest;

366 (h) To collect reasonable fees for its services;
367 however, if it is determined that a person receiving services is



368 unable to pay the total fee, the department shall collect any
369 amount such person is able to pay;

370 (i) To certify, coordinate and establish minimum
371 standards and establish minimum required services, as specified in
372 Section 41-4-1(2), for regional mental health and intellectual
373 disability commissions and other community service providers for
374 community or regional programs and services in adult mental
375 health, children and youth mental health, intellectual
376 disabilities, alcoholism, drug misuse, developmental disabilities,
377 compulsive gambling, addictive disorders and related programs
378 throughout the state. Such regional mental health and
379 intellectual disability commissions and other community service
380 providers shall, on or before July 1 of each year, submit an
381 annual operational plan to the State Department of Mental Health
382 for approval or disapproval based on the minimum standards and
383 minimum required services established by the department for
384 certification and itemize the services specified in Section
385 41-4-1(2). As part of the annual operation plan required by this
386 paragraph (i) submitted by any regional community mental health
387 center or by any other reasonable certification deemed acceptable
388 by the department, the community mental health center shall state
389 those services specified in Section 41-4-1(2) that it will provide
390 and also those services that it will not provide. If the
391 department finds deficiencies in the plan of any regional
392 commission or community service provider based on the minimum



393 standards and minimum required services established for
394 certification, the department shall give the regional commission
395 or community service provider a six-month probationary period to
396 bring its standards and services up to the established minimum
397 standards and minimum required services. After the six-month
398 probationary period, if the department determines that the
399 regional commission or community service provider still does not
400 meet the minimum standards and minimum required services
401 established for certification, the department may remove the
402 certification of the commission or provider and from and after
403 July 1, 2011, the commission or provider shall be ineligible for
404 state funds from Medicaid reimbursement or other funding sources
405 for those services. However, the department shall not mandate a
406 standard or service, or decertify a regional commission or
407 community service provider for not meeting a standard or service,
408 if the standard or service does not have funding appropriated by
409 the Legislature or have a state, federal or local funding source
410 identified by the department. No county shall be required to levy
411 millage to provide a mandated standard or service above the
412 minimum rate required by Section 41-19-39. After the six-month
413 probationary period, the department may identify an appropriate
414 community service provider to provide any core services in that
415 county that are not provided by a community mental health center.
416 However, the department shall not offer reimbursement or other
417 accommodations to a community service provider of core services



418 that were not offered to the decertified community mental health
419 center for the same or similar services. The State Board of
420 Mental Health shall promulgate rules and regulations necessary to
421 implement the provisions of this paragraph (i), in accordance with
422 the Administrative Procedures Law (Section 25-43-1.101 et seq.);

423 (j) To establish and promulgate reasonable minimum
424 standards for the construction and operation of state and all
425 Department of Mental Health certified facilities, including
426 reasonable minimum standards for the admission, diagnosis, care,
427 treatment, transfer of patients and their records, and also
428 including reasonable minimum standards for providing day care,
429 outpatient care, emergency care, inpatient care and follow-up
430 care, when such care is provided for persons with mental or
431 emotional illness, an intellectual disability, alcoholism, drug
432 misuse and developmental disabilities;

433 (k) To implement best practices for all services
434 specified in Section 41-4-1(2), and to establish and implement all
435 other services delivered by the Department of Mental Health. To
436 carry out this responsibility, the board shall require the
437 department to establish a division responsible for developing best
438 practices based on a comprehensive analysis of the mental health
439 environment to determine what the best practices for each service
440 are. In developing best practices, the board shall consider the
441 cost and benefits associated with each practice with a goal of
442 implementing only those practices that are cost-effective



443 practices for service delivery. Such best practices shall be
444 utilized by the board in establishing performance standards and
445 evaluations of the community mental health centers' services
446 required by paragraph (d) of this section;

447 (l) To assist community or regional programs consistent
448 with the purposes of this chapter by making grants and contracts
449 from available funds;

450 (m) To establish and collect reasonable fees for
451 necessary inspection services incidental to certification or
452 compliance;

453 (n) To accept gifts, trusts, bequests, grants,
454 endowments or transfers of property of any kind;

455 (o) To receive monies coming to it by way of fees for
456 services or by appropriations;

457 (p) To serve as the single state agency in receiving
458 and administering any and all funds available from any source for
459 the purpose of service delivery, training, research and education
460 in regard to all forms of mental illness, intellectual
461 disabilities, alcoholism, drug misuse and developmental
462 disabilities, unless such funds are specifically designated to a
463 particular agency or institution by the federal government, the
464 Mississippi Legislature or any other grantor;

465 (q) To establish mental health holding centers for the
466 purpose of providing short-term emergency mental health treatment,
467 places for holding persons awaiting commitment proceedings or



468 awaiting placement in a state mental health facility following
469 commitment, and for diverting placement in a state mental health
470 facility. These mental health holding facilities shall be readily
471 accessible, available statewide, and be in compliance with
472 emergency services' minimum standards. They shall be
473 comprehensive and available to triage and make appropriate
474 clinical disposition, including the capability to access inpatient
475 services or less restrictive alternatives, as needed, as
476 determined by medical staff. Such facility shall have medical,
477 nursing and behavioral services available on a
478 twenty-four-hour-a-day basis. The board may provide for all or
479 part of the costs of establishing and operating the holding
480 centers in each district from such funds as may be appropriated to
481 the board for such use, and may participate in any plan or
482 agreement with any public or private entity under which the entity
483 will provide all or part of the costs of establishing and
484 operating a holding center in any district;

485 (r) To certify/license case managers, mental health
486 therapists, intellectual disability therapists, mental
487 health/intellectual disability program administrators, addiction
488 counselors and others as deemed appropriate by the board. Persons
489 already professionally licensed by another state board or agency
490 are not required to be certified/licensed under this section by
491 the Department of Mental Health. The department shall not use
492 professional titles in its certification/licensure process for



493 which there is an independent licensing procedure. Such
494 certification/licensure shall be valid only in the state mental
495 health system, in programs funded and/or certified by the
496 Department of Mental Health, and/or in programs certified/licensed
497 by the State Department of Health that are operated by the state
498 mental health system serving persons with mental illness, an
499 intellectual disability, a developmental disability or addictions,
500 and shall not be transferable;

501 (s) To develop formal mental health worker
502 qualifications for regional mental health and intellectual
503 disability commissions and other community service providers. The
504 State Personnel Board shall develop and promulgate a recommended
505 salary scale and career ladder for all regional mental
506 health/intellectual disability center therapists and case managers
507 who work directly with clients. The State Personnel Board shall
508 also develop and promulgate a career ladder for all direct care
509 workers employed by the State Department of Mental Health;

510 (t) The employees of the department shall be governed
511 by personnel merit system rules and regulations, the same as other
512 employees in state services;

513 (u) To establish such rules and regulations as may be
514 necessary in carrying out the provisions of this chapter,
515 including the establishment of a formal grievance procedure to
516 investigate and attempt to resolve consumer complaints;



517 (v) To grant easements for roads, utilities and any
518 other purpose it finds to be in the public interest;

519 (w) To survey statutory designations, building markers
520 and the names given to mental health/intellectual disability
521 facilities and proceedings in order to recommend deletion of
522 obsolete and offensive terminology relative to the mental
523 health/intellectual disability system. Based upon a
524 recommendation of the executive director, the board shall have the
525 authority to name/rename any facility operated under the auspices
526 of the Department of Mental Health for the sole purpose of
527 deleting such terminology;

528 (x) To ensure an effective case management system
529 directed at persons who have been discharged from state and
530 private psychiatric hospitals to ensure their continued well-being
531 in the community;

532 (y) To develop formal service delivery standards
533 designed to measure the quality of services delivered to community
534 clients, as well as the timeliness of services to community
535 clients provided by regional mental health/intellectual disability
536 commissions and other community services providers;

537 (z) To establish regional state offices to provide
538 mental health crisis intervention centers and services available
539 throughout the state to be utilized on a case-by-case emergency
540 basis. The regional services director, other staff and delivery



541 systems shall meet the minimum standards of the Department of
542 Mental Health;

543 (aa) To require performance contracts with community
544 mental health/intellectual disability service providers to contain
545 performance indicators to measure successful outcomes, including
546 diversion of persons from inpatient psychiatric hospitals,
547 rapid/timely response to emergency cases, client satisfaction with
548 services and other relevant performance measures;

549 (bb) To enter into interagency agreements with other
550 state agencies, school districts and other local entities as
551 determined necessary by the department to ensure that local mental
552 health service entities are fulfilling their responsibilities to
553 the overall state plan for behavioral services;

554 (cc) To establish and maintain a toll-free grievance
555 reporting telephone system for the receipt and referral for
556 investigation of all complaints by clients of state and community
557 mental health/intellectual disability facilities;

558 (dd) To establish a peer review/quality assurance
559 evaluation system that assures that appropriate assessment,
560 diagnosis and treatment is provided according to established
561 professional criteria and guidelines;

562 (ee) To develop and implement state plans for the
563 purpose of assisting with the care and treatment of persons with
564 Alzheimer's disease and other dementia. This plan shall include
565 education and training of service providers, caregivers in the



566 home setting and others who deal with persons with Alzheimer's
567 disease and other dementia, and development of adult day care,
568 family respite care and counseling programs to assist families who
569 maintain persons with Alzheimer's disease and other dementia in
570 the home setting. No agency shall be required to provide any
571 services under this section until such time as sufficient funds
572 have been appropriated or otherwise made available by the
573 Legislature specifically for the purposes of the treatment of
574 persons with Alzheimer's and other dementia;

575 (ff) Working with the advice and consent of the
576 administration of Ellisville State School, to enter into
577 negotiations with the Economic Development Authority of Jones
578 County for the purpose of negotiating the possible exchange, lease
579 or sale of lands owned by Ellisville State School to the Economic
580 Development Authority of Jones County. It is the intent of the
581 Mississippi Legislature that such negotiations shall ensure that
582 the financial interest of the persons with an intellectual
583 disability served by Ellisville State School will be held
584 paramount in the course of these negotiations. The Legislature
585 also recognizes the importance of economic development to the
586 citizens of the State of Mississippi and Jones County, and
587 encourages fairness to the Economic Development Authority of Jones
588 County. Any negotiations proposed which would result in the
589 recommendation for exchange, lease or sale of lands owned by
590 Ellisville State School must have the approval of the State Board



591 of Mental Health. The State Board of Mental Health may and has
592 the final authority as to whether or not these negotiations result
593 in the exchange, lease or sale of the properties it currently
594 holds in trust for persons with an intellectual disability served
595 at Ellisville State School.

596 If the State Board of Mental Health authorizes the sale of
597 lands owned by Ellisville State School, as provided for under this
598 paragraph (ff), the monies derived from the sale shall be placed
599 into a special fund that is created in the State Treasury to be
600 known as the "Ellisville State School Client's Trust Fund." The
601 principal of the trust fund shall remain inviolate and shall never
602 be expended. Any interest earned on the principal may be expended
603 solely for the benefits of clients served at Ellisville State
604 School. The State Treasurer shall invest the monies of the trust
605 fund in any of the investments authorized for the Mississippi
606 Prepaid Affordable College Tuition Program under Section 37-155-9,
607 and those investments shall be subject to the limitations
608 prescribed by Section 37-155-9. Unexpended amounts remaining in
609 the trust fund at the end of a fiscal year shall not lapse into
610 the State General Fund, and any interest earned on amounts in the
611 trust fund shall be deposited to the credit of the trust fund.
612 The administration of Ellisville State School may use any interest
613 earned on the principal of the trust fund, upon appropriation by
614 the Legislature, as needed for services or facilities by the
615 clients of Ellisville State School. Ellisville State School shall



616 make known to the Legislature, through the Legislative Budget
617 Committee and the respective Appropriations Committees of the
618 House and Senate, its proposed use of interest earned on the
619 principal of the trust fund for any fiscal year in which it
620 proposes to make expenditures thereof. The State Treasurer shall
621 provide Ellisville State School with an annual report on the
622 Ellisville State School Client's Trust Fund to indicate the total
623 monies in the trust fund, interest earned during the year,
624 expenses paid from the trust fund and such other related
625 information.

626 Nothing in this section shall be construed as applying to or
627 affecting mental health/intellectual disability services provided
628 by hospitals as defined in Section 41-9-3(a), and/or their
629 subsidiaries and divisions, which hospitals, subsidiaries and
630 divisions are licensed and regulated by the Mississippi State
631 Department of Health unless such hospitals, subsidiaries or
632 divisions voluntarily request certification by the Mississippi
633 State Department of Mental Health.

634 All new programs authorized under this section shall be
635 subject to the availability of funds appropriated therefor by the
636 Legislature;

637 (gg) Working with the advice and consent of the
638 administration of Boswell Regional Center, to enter into
639 negotiations with the Economic Development Authority of Simpson
640 County for the purpose of negotiating the possible exchange, lease



641 or sale of lands owned by Boswell Regional Center to the Economic
642 Development Authority of Simpson County. It is the intent of the
643 Mississippi Legislature that such negotiations shall ensure that
644 the financial interest of the persons with an intellectual
645 disability served by Boswell Regional Center will be held
646 paramount in the course of these negotiations. The Legislature
647 also recognizes the importance of economic development to the
648 citizens of the State of Mississippi and Simpson County, and
649 encourages fairness to the Economic Development Authority of
650 Simpson County. Any negotiations proposed which would result in
651 the recommendation for exchange, lease or sale of lands owned by
652 Boswell Regional Center must have the approval of the State Board
653 of Mental Health. The State Board of Mental Health may and has
654 the final authority as to whether or not these negotiations result
655 in the exchange, lease or sale of the properties it currently
656 holds in trust for persons with an intellectual disability served
657 at Boswell Regional Center. In any such exchange, lease or sale
658 of such lands owned by Boswell Regional Center, title to all
659 minerals, oil and gas on such lands shall be reserved, together
660 with the right of ingress and egress to remove same, whether such
661 provisions be included in the terms of any such exchange, lease or
662 sale or not.

663 If the State Board of Mental Health authorizes the sale of
664 lands owned by Boswell Regional Center, as provided for under this
665 paragraph (gg), the monies derived from the sale shall be placed



666 into a special fund that is created in the State Treasury to be
667 known as the "Boswell Regional Center Client's Trust Fund." The
668 principal of the trust fund shall remain inviolate and shall never
669 be expended. Any earnings on the principal may be expended solely
670 for the benefits of clients served at Boswell Regional Center.
671 The State Treasurer shall invest the monies of the trust fund in
672 any of the investments authorized for the Mississippi Prepaid
673 Affordable College Tuition Program under Section 37-155-9, and
674 those investments shall be subject to the limitations prescribed
675 by Section 37-155-9. Unexpended amounts remaining in the trust
676 fund at the end of a fiscal year shall not lapse into the State
677 General Fund, and any earnings on amounts in the trust fund shall
678 be deposited to the credit of the trust fund. The administration
679 of Boswell Regional Center may use any earnings on the principal
680 of the trust fund, upon appropriation by the Legislature, as
681 needed for services or facilities by the clients of Boswell
682 Regional Center. Boswell Regional Center shall make known to the
683 Legislature, through the Legislative Budget Committee and the
684 respective Appropriations Committees of the House and Senate, its
685 proposed use of the earnings on the principal of the trust fund
686 for any fiscal year in which it proposes to make expenditures
687 thereof. The State Treasurer shall provide Boswell Regional
688 Center with an annual report on the Boswell Regional Center
689 Client's Trust Fund to indicate the total monies in the trust



690 fund, interest and other income earned during the year, expenses
691 paid from the trust fund and such other related information.

692 Nothing in this section shall be construed as applying to or
693 affecting mental health/intellectual disability services provided
694 by hospitals as defined in Section 41-9-3(a), and/or their
695 subsidiaries and divisions, which hospitals, subsidiaries and
696 divisions are licensed and regulated by the Mississippi State
697 Department of Health unless such hospitals, subsidiaries or
698 divisions voluntarily request certification by the Mississippi
699 State Department of Mental Health.

700 All new programs authorized under this section shall be
701 subject to the availability of funds appropriated therefor by the
702 Legislature;

703 (hh) Notwithstanding any other section of the code, the
704 Board of Mental Health shall be authorized to fingerprint and
705 perform a criminal history record check on every employee or
706 volunteer. Every employee and volunteer shall provide a valid
707 current social security number and/or driver's license number
708 which shall be furnished to conduct the criminal history record
709 check. If no disqualifying record is identified at the state
710 level, fingerprints shall be forwarded to the Federal Bureau of
711 Investigation for a national criminal history record check;

712 (ii) The Department of Mental Health shall have the
713 authority for the development of a consumer friendly single point
714 of intake and referral system within its service areas for persons



715 with mental illness, an intellectual disability, developmental
716 disabilities or alcohol or substance abuse who need assistance
717 identifying or accessing appropriate services. The department
718 will develop and implement a comprehensive evaluation procedure
719 ensuring that, where appropriate, the affected person or their
720 parent or legal guardian will be involved in the assessment and
721 planning process. The department, as the point of intake and as
722 service provider, shall have the authority to determine the
723 appropriate institutional, hospital or community care setting for
724 persons who have been diagnosed with mental illness, an
725 intellectual disability, developmental disabilities and/or alcohol
726 or substance abuse, and may provide for the least restrictive
727 placement if the treating professional believes such a setting is
728 appropriate, if the person affected or their parent or legal
729 guardian wants such services, and if the department can do so with
730 a reasonable modification of the program without creating a
731 fundamental alteration of the program. The least restrictive
732 setting could be an institution, hospital or community setting,
733 based upon the needs of the affected person or their parent or
734 legal guardian;

735 (jj) Consistent with Section 29-5-2.2, to have
736 the * * * power and discretion to enter into, sign, execute and
737 deliver long-term or multiyear leases of real and personal
738 property owned by the Department of Mental Health to and from
739 other state and federal agencies and private entities deemed to be



740 in the public's best interest. Any monies derived from such
741 leases shall be deposited into the funds of the Department of
742 Mental Health for its exclusive use. Leases to private entities
743 shall be approved by the Department of Finance and Administration
744 and all leases shall be filed with the Secretary of State;

745 (kk) To certify and establish minimum standards and
746 minimum required services for county facilities used for housing,
747 feeding and providing medical treatment for any person who has
748 been involuntarily ordered admitted to a treatment center by a
749 court of competent jurisdiction. The minimum standard for the
750 initial assessment of those persons being housed in county
751 facilities is for the assessment to be performed by a physician,
752 preferably a psychiatrist, or by a nurse practitioner, preferably
753 a psychiatric nurse practitioner. If the department finds
754 deficiencies in any such county facility or its provider based on
755 the minimum standards and minimum required services established
756 for certification, the department shall give the county or its
757 provider a six-month probationary period to bring its standards
758 and services up to the established minimum standards and minimum
759 required services. After the six-month probationary period, if
760 the department determines that the county or its provider still
761 does not meet the minimum standards and minimum required services,
762 the department may remove the certification of the county or
763 provider and require the county to contract with another county
764 having a certified facility to hold those persons for that period



765 of time pending transportation and admission to a state treatment
766 facility. Any cost incurred by a county receiving an
767 involuntarily committed person from a county with a decertified
768 holding facility shall be reimbursed by the home county to the
769 receiving county.

770 **SECTION 5.** Section 41-73-27, Mississippi Code of 1972, is
771 amended as follows:

772 41-73-27. The authority is hereby granted all powers
773 necessary or appropriate to carry out and effectuate its public
774 and corporate purposes, including but not limited to the
775 following:

776 (a) To have perpetual succession as a body politic and
777 corporate and an independent instrumentality exercising essential
778 public functions;

779 (b) To adopt, amend and repeal bylaws, rules and
780 regulations, not inconsistent with this act, to regulate its
781 affairs and to carry into effect the powers and purposes of the
782 authority and conduct its business;

783 (c) To sue and be sued in its own name;

784 (d) To have an official seal and alter it at will;

785 (e) To maintain an office at such place or places
786 within the state as it may designate;

787 (f) To monitor on a continuing basis the need for
788 hospital equipment financing and hospital facilities financing at



789 interest rates which are consistent with the needs of hospital
790 institutions;

791 (g) To make and execute contracts and all other
792 instruments necessary or convenient for the performance of its
793 duties and the exercise of its powers and functions under this
794 act;

795 (h) To employ architects, engineers, attorneys,
796 inspectors, accountants and health care experts and financial
797 advisors, and such other advisors, consultants and agents as may
798 be necessary in its judgment, and to fix their compensation;

799 (i) To procure insurance against any loss in connection
800 with its property and other assets, in such amounts and from such
801 insurers as it may deem advisable, including the power to pay
802 premiums on any such insurance;

803 (j) To procure insurance or guarantees from any public
804 or private entities, including any department, agency or
805 instrumentality of the United States of America, to secure payment
806 (i) on a loan, lease or purchase payment owed by a participating
807 hospital institution to the authority and (ii) of any bonds issued
808 by the authority, including the power to pay premiums on any such
809 insurance or guarantee;

810 (k) To procure letters of credit from any national or
811 state banking association or other entity authorized to issue a
812 letter of credit to secure the payment of any bonds issued by the
813 authority or to secure the payment of any loan, lease or purchase



814 payment owed by a participating hospital institution to the
815 authority, including the power to pay the cost of obtaining such
816 letter of credit;

817 (l) To receive and accept from any source aid or
818 contributions of money, property, labor or other things of value
819 to be held, used and applied to carry out the purposes of this act
820 subject to the conditions upon which the grants or contributions
821 are made, including but not limited to gifts or grants from any
822 department, agency or instrumentality of the United States of
823 America for any purpose consistent with the provisions of this
824 act;

825 (m) To provide, or cause to be provided by a
826 participating hospital institution, by acquisition, lease,
827 fabrication, repair, restoration, reconditioning, refinancing or
828 installation, one or more hospital facilities located within the
829 state or items of hospital equipment to be located within a
830 hospital facility in the state;

831 (n) To lease as lessor any hospital facility or any
832 item of hospital equipment for such rentals and upon such terms
833 and conditions as the authority may deem advisable and as are not
834 in conflict with the provisions of this act;

835 (o) To sell for installment payments or otherwise, to
836 option or contract for such sale, and to convey all or any part of
837 any hospital facility or any item of hospital equipment for such
838 price and upon such terms and conditions as the authority may deem



839 advisable and as are not in conflict with the provisions of this
840 act;

841 (p) To make contracts and incur liabilities, borrow
842 money at such rates of interest as the authority may determine,
843 issue its bonds in accordance with the provisions of this act, and
844 secure any of its bonds or obligations by mortgage or pledge of
845 all or any of its property, franchises and income or as otherwise
846 provided in this act;

847 (q) To make secured or unsecured loans for the purpose
848 of providing temporary or permanent financing or refinancing for
849 the cost of any hospital facility or item of hospital equipment,
850 including the retiring of any outstanding obligations with respect
851 to such hospital facility or hospital equipment, and the
852 reimbursement for the cost of any hospital facility or hospital
853 equipment, purchased within two (2) years immediately preceding
854 the date of the bond issue, made or given by any participating
855 hospital institution for the cost of any hospital facility,
856 hospital equipment, and to charge and collect interest on such
857 loans for such loan payments and upon such terms and conditions as
858 the authority may deem advisable and as are not in conflict with
859 the provisions of this act;

860 (r) To invest and reinvest its funds and to take and
861 hold property as security for the investment of such funds as
862 provided in this act;



863 (s) To purchase, receive, lease (as lessee or lessor),
864 or otherwise acquire, own, hold, improve, use or otherwise deal in
865 and with, hospital facilities and equipment, or any interest
866 therein, wherever situated, as the purposes of the authority shall
867 require;

868 (t) Consistent with Section 29-5-2.2, to sell, convey,
869 mortgage, pledge, assign, lease, exchange, transfer and otherwise
870 dispose of all or any part of its property and assets;

871 (u) To the extent permitted under its contract with the
872 holders of bonds of the authority, consent to any modification
873 with respect to the rate of interest, time and payment of any
874 installment of principal or interest, or any other term of any
875 contract, loan, loan note, loan note commitment, contract, lease
876 or agreement of any kind to which the authority is a party; and

877 (v) To assist participating hospital institutions to
878 obtain funds for any purpose by utilizing the value of the
879 receivables of such participating hospital institutions through
880 the making of loans secured by such receivables, by purchasing
881 such receivables, by utilizing such receivables to secure
882 obligations of the authority, or through any combination of the
883 foregoing.

884 **SECTION 6.** Section 43-13-116, Mississippi Code of 1972, is
885 amended as follows:

886 43-13-116. (1) It shall be the duty of the Division of
887 Medicaid to fully implement and carry out the administrative



888 functions of determining the eligibility of those persons who
889 qualify for medical assistance under Section 43-13-115.

890 (2) In determining Medicaid eligibility, the Division of
891 Medicaid is authorized to enter into an agreement with the
892 Secretary of the Department of Health and Human Services for the
893 purpose of securing the transfer of eligibility information from
894 the Social Security Administration on those individuals receiving
895 supplemental security income benefits under the federal Social
896 Security Act and any other information necessary in determining
897 Medicaid eligibility. The Division of Medicaid is further
898 empowered to enter into contractual arrangements with its fiscal
899 agent or with the State Department of Human Services in securing
900 electronic data processing support as may be necessary.

901 (3) Administrative hearings shall be available to any
902 applicant who requests it because his or her claim of eligibility
903 for services is denied or is not acted upon with reasonable
904 promptness or by any recipient who requests it because he or she
905 believes the agency has erroneously taken action to deny, reduce,
906 or terminate benefits. The agency need not grant a hearing if the
907 sole issue is a federal or state law requiring an automatic change
908 adversely affecting some or all recipients. Eligibility
909 determinations that are made by other agencies and certified to
910 the Division of Medicaid pursuant to Section 43-13-115 are not
911 subject to the administrative hearing procedures of the Division



912 of Medicaid but are subject to the administrative hearing
913 procedures of the agency that determined eligibility.

914 (a) A request may be made either for a local regional
915 office hearing or a state office hearing when the local regional
916 office has made the initial decision that the claimant seeks to
917 appeal or when the regional office has not acted with reasonable
918 promptness in making a decision on a claim for eligibility or
919 services. The only exception to requesting a local hearing is
920 when the issue under appeal involves either (i) a disability or
921 blindness denial, or termination, or (ii) a level of care denial
922 or termination for a disabled child living at home. An appeal
923 involving disability, blindness or level of care must be handled
924 as a state level hearing. The decision from the local hearing may
925 be appealed to the state office for a state hearing. A decision
926 to deny, reduce or terminate benefits that is initially made at
927 the state office may be appealed by requesting a state hearing.

928 (b) A request for a hearing, either state or local,
929 must be made in writing by the claimant or claimant's legal
930 representative. "Legal representative" includes the claimant's
931 authorized representative, an attorney retained by the claimant or
932 claimant's family to represent the claimant, a paralegal
933 representative with a legal aid services, a parent of a minor
934 child if the claimant is a child, a legal guardian or conservator
935 or an individual with power of attorney for the claimant. The
936 claimant may also be represented by anyone that he or she so



937 designates but must give the designation to the Medicaid regional
938 office or state office in writing, if the person is not the legal
939 representative, legal guardian, or authorized representative.

940 (c) The claimant may make a request for a hearing in
941 person at the regional office but an oral request must be put into
942 written form. Regional office staff will determine from the
943 claimant if a local or state hearing is requested and assist the
944 claimant in completing and signing the appropriate form. Regional
945 office staff may forward a state hearing request to the
946 appropriate division in the state office or the claimant may mail
947 the form to the address listed on the form. The claimant may make
948 a written request for a hearing by letter. A simple statement
949 requesting a hearing that is signed by the claimant or legal
950 representative is sufficient; however, if possible, the claimant
951 should state the reason for the request. The letter may be mailed
952 to the regional office or it may be mailed to the state office. If
953 the letter does not specify the type of hearing desired, local or
954 state, Medicaid staff will attempt to contact the claimant to
955 determine the level of hearing desired. If contact cannot be made
956 within three (3) days of receipt of the request, the request will
957 be assumed to be for a local hearing and scheduled accordingly. A
958 hearing will not be scheduled until either a letter or the
959 appropriate form is received by the regional or state office.

960 (d) When both members of a couple wish to appeal an
961 action or inaction by the agency that affects both applications or



962 cases similarly and arose from the same issue, one or both may
963 file the request for hearing, both may present evidence at the
964 hearing, and the agency's decision will be applicable to both. If
965 both file a request for hearing, two (2) hearings will be
966 registered but they will be conducted on the same day and in the
967 same place, either consecutively or jointly, as the couple wishes.
968 If they so desire, only one of the couple need attend the hearing.

969 (e) The procedure for administrative hearings shall be
970 as follows:

971 (i) The claimant has thirty (30) days from the
972 date the agency mails the appropriate notice to the claimant of
973 its decision regarding eligibility, services, or benefits to
974 request either a state or local hearing. This time period may be
975 extended if the claimant can show good cause for not filing within
976 thirty (30) days. Good cause includes, but may not be limited to,
977 illness, failure to receive the notice, being out of state, or
978 some other reasonable explanation. If good cause can be shown, a
979 late request may be accepted provided the facts in the case remain
980 the same. If a claimant's circumstances have changed or if good
981 cause for filing a request beyond thirty (30) days is not shown, a
982 hearing request will not be accepted. If the claimant wishes to
983 have eligibility reconsidered, he or she may reapply.

984 (ii) If a claimant or representative requests a
985 hearing in writing during the advance notice period before
986 benefits are reduced or terminated, benefits must be continued or



987 reinstated to the benefit level in effect before the effective
988 date of the adverse action. Benefits will continue at the
989 original level until the final hearing decision is rendered. Any
990 hearing requested after the advance notice period will not be
991 accepted as a timely request in order for continuation of benefits
992 to apply.

993 (iii) Upon receipt of a written request for a
994 hearing, the request will be acknowledged in writing within twenty
995 (20) days and a hearing scheduled. The claimant or representative
996 will be given at least five (5) days' advance notice of the
997 hearing date. The local and/or state level hearings will be held
998 by telephone unless, at the hearing officer's discretion, it is
999 determined that an in-person hearing is necessary. If a local
1000 hearing is requested, the regional office will notify the claimant
1001 or representative in writing of the time of the local hearing. If
1002 a state hearing is requested, the state office will notify the
1003 claimant or representative in writing of the time of the state
1004 hearing. If an in-person hearing is necessary, local hearings
1005 will be held at the regional office and state hearings will be
1006 held at the state office unless other arrangements are
1007 necessitated by the claimant's inability to travel.

1008 (iv) All persons attending a hearing will attend
1009 for the purpose of giving information on behalf of the claimant or
1010 rendering the claimant assistance in some other way, or for the
1011 purpose of representing the Division of Medicaid.



1012 (v) A state or local hearing request may be
1013 withdrawn at any time before the scheduled hearing, or after the
1014 hearing is held but before a decision is rendered. The withdrawal
1015 must be in writing and signed by the claimant or representative.
1016 A hearing request will be considered abandoned if the claimant or
1017 representative fails to appear at a scheduled hearing without good
1018 cause. If no one appears for a hearing, the appropriate office
1019 will notify the claimant in writing that the hearing is dismissed
1020 unless good cause is shown for not attending. The proposed agency
1021 action will be taken on the case following failure to appear for a
1022 hearing if the action has not already been effected.

1023 (vi) The claimant or his representative has the
1024 following rights in connection with a local or state hearing:

1025 (A) The right to examine at a reasonable time
1026 before the date of the hearing and during the hearing the content
1027 of the claimant's case record;

1028 (B) The right to have legal representation at
1029 the hearing and to bring witnesses;

1030 (C) The right to produce documentary evidence
1031 and establish all facts and circumstances concerning eligibility,
1032 services, or benefits;

1033 (D) The right to present an argument without
1034 undue interference;



1035 (E) The right to question or refute any
1036 testimony or evidence including an opportunity to confront and
1037 cross-examine adverse witnesses.

1038 (vii) When a request for a local hearing is
1039 received by the regional office or if the regional office is
1040 notified by the state office that a local hearing has been
1041 requested, the Medicaid specialist supervisor in the regional
1042 office will review the case record, reexamine the action taken on
1043 the case, and determine if policy and procedures have been
1044 followed. If any adjustments or corrections should be made, the
1045 Medicaid specialist supervisor will ensure that corrective action
1046 is taken. If the request for hearing was timely made such that
1047 continuation of benefits applies, the Medicaid specialist
1048 supervisor will ensure that benefits continue at the level before
1049 the proposed adverse action that is the subject of the appeal.
1050 The Medicaid specialist supervisor will also ensure that all
1051 needed information, verification, and evidence is in the case
1052 record for the hearing.

1053 (viii) When a state hearing is requested that
1054 appeals the action or inaction of a regional office, the regional
1055 office will prepare copies of the case record and forward it to
1056 the appropriate division in the state office no later than five
1057 (5) days after receipt of the request for a state hearing. The
1058 original case record will remain in the regional office. Either
1059 the original case record in the regional office or the copy



1060 forwarded to the state office will be available for inspection by
1061 the claimant or claimant's representative a reasonable time before
1062 the date of the hearing.

1063 (ix) The Medicaid specialist supervisor will serve
1064 as the hearing officer for a local hearing unless the Medicaid
1065 specialist supervisor actually participated in the eligibility,
1066 benefits, or services decision under appeal, in which case the
1067 Medicaid specialist supervisor must appoint a Medicaid specialist
1068 in the regional office who did not actually participate in the
1069 decision under appeal to serve as hearing officer. The local
1070 hearing will be an informal proceeding in which the claimant or
1071 representative may present new or additional information, may
1072 question the action taken on the client's case, and will hear an
1073 explanation from agency staff as to the regulations and
1074 requirements that were applied to claimant's case in making the
1075 decision.

1076 (x) After the hearing, the hearing officer will
1077 prepare a written summary of the hearing procedure and file it
1078 with the case record. The hearing officer will consider the facts
1079 presented at the local hearing in reaching a decision. The
1080 claimant will be notified of the local hearing decision on the
1081 appropriate form that will state clearly the reason for the
1082 decision, the policy that governs the decision, the claimant's
1083 right to appeal the decision to the state office, and, if the
1084 original adverse action is upheld, the new effective date of the



1085 reduction or termination of benefits or services if continuation
1086 of benefits applied during the hearing process. The new effective
1087 date of the reduction or termination of benefits or services must
1088 be at the end of the fifteen-day advance notice period from the
1089 mailing date of the notice of hearing decision. The notice to
1090 claimant will be made part of the case record.

1091 (xi) The claimant has the right to appeal a local
1092 hearing decision by requesting a state hearing in writing within
1093 fifteen (15) days of the mailing date of the notice of local
1094 hearing decision. The state hearing request should be made to the
1095 regional office. If benefits have been continued pending the
1096 local hearing process, then benefits will continue throughout the
1097 fifteen-day advance notice period for an adverse local hearing
1098 decision. If a state hearing is timely requested within the
1099 fifteen-day period, then benefits will continue pending the state
1100 hearing process. State hearings requested after the fifteen-day
1101 local hearing advance notice period will not be accepted unless
1102 the initial thirty-day period for filing a hearing request has not
1103 expired because the local hearing was held early, in which case a
1104 state hearing request will be accepted as timely within the number
1105 of days remaining of the unexpired initial thirty-day period in
1106 addition to the fifteen-day time period. Continuation of benefits
1107 during the state hearing process, however, will only apply if the
1108 state hearing request is received within the fifteen-day advance
1109 notice period.



1110 (xii) When a request for a state hearing is
1111 received in the regional office, the request will be made part of
1112 the case record and the regional office will prepare the case
1113 record and forward it to the appropriate division in the state
1114 office within five (5) days of receipt of the state hearing
1115 request. A request for a state hearing received in the state
1116 office will be forwarded to the regional office for inclusion in
1117 the case record and the regional office will prepare the case
1118 record and forward it to the appropriate division in the state
1119 office within five (5) days of receipt of the state hearing
1120 request.

1121 (xiii) Upon receipt of the hearing record, an
1122 impartial hearing officer will be assigned to hear the case either
1123 by the Executive Director of the Division of Medicaid or his or
1124 her designee. Hearing officers will be individuals with
1125 appropriate expertise employed by the division and who have not
1126 been involved in any way with the action or decision on appeal in
1127 the case. The hearing officer will review the case record and if
1128 the review shows that an error was made in the action of the
1129 agency or in the interpretation of policy, or that a change of
1130 policy has been made, the hearing officer will discuss these
1131 matters with the appropriate agency personnel and request that an
1132 appropriate adjustment be made. Appropriate agency personnel will
1133 discuss the matter with the claimant and if the claimant is
1134 agreeable to the adjustment of the claim, then agency personnel



1135 will request in writing dismissal of the hearing and the reason
1136 therefor, to be placed in the case record. If the hearing is to
1137 go forward, it shall be scheduled by the hearing officer in the
1138 manner set forth in subparagraph (iii) of this paragraph (e).

1139 (xiv) In conducting the hearing, the state hearing
1140 officer will inform those present of the following:

1141 (A) That the hearing will be recorded on tape
1142 and that a transcript of the proceedings will be typed for the
1143 record;

1144 (B) The action taken by the agency which
1145 prompted the appeal;

1146 (C) An explanation of the claimant's rights
1147 during the hearing as outlined in subparagraph (vi) of this
1148 paragraph (e);

1149 (D) That the purpose of the hearing is for
1150 the claimant to express dissatisfaction and present additional
1151 information or evidence;

1152 (E) That the case record is available for
1153 review by the claimant or representative during the hearing;

1154 (F) That the final hearing decision will be
1155 rendered by the Executive Director of the Division of Medicaid on
1156 the basis of facts presented at the hearing and the case record
1157 and that the claimant will be notified by letter of the final
1158 decision.



1159 (xv) During the hearing, the claimant and/or
1160 representative will be allowed an opportunity to make a full
1161 statement concerning the appeal and will be assisted, if
1162 necessary, in disclosing all information on which the claim is
1163 based. All persons representing the claimant and those
1164 representing the Division of Medicaid will have the opportunity to
1165 state all facts pertinent to the appeal. The hearing officer may
1166 recess or continue the hearing for a reasonable time should
1167 additional information or facts be required or if some change in
1168 the claimant's circumstances occurs during the hearing process
1169 which impacts the appeal. When all information has been
1170 presented, the hearing officer will close the hearing and stop the
1171 recorder.

1172 (xvi) Immediately following the hearing the
1173 hearing tape will be transcribed and a copy of the transcription
1174 forwarded to the regional office for filing in the case record.
1175 As soon as possible, the hearing officer shall review the evidence
1176 and record of the proceedings, testimony, exhibits, and other
1177 supporting documents, prepare a written summary of the facts as
1178 the hearing officer finds them, and prepare a written
1179 recommendation of action to be taken by the agency, citing
1180 appropriate policy and regulations that govern the recommendation.
1181 The decision cannot be based on any material, oral or written, not
1182 available to the claimant before or during the hearing. The
1183 hearing officer's recommendation will become part of the case



1184 record which will be submitted to the Executive Director of the
1185 Division of Medicaid for further review and decision.

1186 (xvii) The Executive Director of the Division of
1187 Medicaid, upon review of the recommendation, proceedings and the
1188 record, may sustain the recommendation of the hearing officer,
1189 reject the same, or remand the matter to the hearing officer to
1190 take additional testimony and evidence, in which case, the hearing
1191 officer thereafter shall submit to the executive director a new
1192 recommendation. The executive director shall prepare a written
1193 decision summarizing the facts and identifying policies and
1194 regulations that support the decision, which shall be mailed to
1195 the claimant and the representative, with a copy to the regional
1196 office if appropriate, as soon as possible after submission of a
1197 recommendation by the hearing officer. The decision notice will
1198 specify any action to be taken by the agency, specify any revised
1199 eligibility dates or, if continuation of benefits applies, will
1200 notify the claimant of the new effective date of reduction or
1201 termination of benefits or services, which will be fifteen (15)
1202 days from the mailing date of the notice of decision. The
1203 decision rendered by the Executive Director of the Division of
1204 Medicaid is final and binding. The claimant is entitled to seek
1205 judicial review in a court of proper jurisdiction.

1206 (xviii) The Division of Medicaid must take final
1207 administrative action on a hearing, whether state or local, within



1208 ninety (90) days from the date of the initial request for a
1209 hearing.

1210 (xix) A group hearing may be held for a number of
1211 claimants under the following circumstances:

1212 (A) The Division of Medicaid may consolidate
1213 the cases and conduct a single group hearing when the only issue
1214 involved is one (1) of a single law or agency policy;

1215 (B) The claimants may request a group hearing
1216 when there is one (1) issue of agency policy common to all of
1217 them.

1218 In all group hearings, whether initiated by the Division of
1219 Medicaid or by the claimants, the policies governing fair hearings
1220 must be followed. Each claimant in a group hearing must be
1221 permitted to present his or her own case and be represented by his
1222 or her own representative, or to withdraw from the group hearing
1223 and have his or her appeal heard individually. As in individual
1224 hearings, the hearing will be conducted only on the issue being
1225 appealed, and each claimant will be expected to keep individual
1226 testimony within a reasonable time frame as a matter of
1227 consideration to the other claimants involved.

1228 (xx) Any specific matter necessitating an
1229 administrative hearing not otherwise provided under this article
1230 or agency policy shall be afforded under the hearing procedures as
1231 outlined above. If the specific time frames of such a unique
1232 matter relating to requesting, granting, and concluding of the



1233 hearing is contrary to the time frames as set out in the hearing
1234 procedures above, the specific time frames will govern over the
1235 time frames as set out within these procedures.

1236 (4) The Executive Director of the Division of Medicaid, with
1237 the approval of the Governor, shall be authorized to employ
1238 eligibility, technical, clerical and supportive staff as may be
1239 required in carrying out and fully implementing the determination
1240 of Medicaid eligibility, including conducting quality control
1241 reviews and the investigation of the improper receipt of medical
1242 assistance. Staffing needs will be set forth in the annual
1243 appropriation act for the division. Consistent with Section
1244 29-5-2.2, additional office space as needed in performing
1245 eligibility, quality control and investigative functions shall be
1246 obtained by the division.

1247 **SECTION 7.** Section 43-33-717, Mississippi Code of 1972, is
1248 amended as follows:

1249 43-33-717. (1) The corporation shall have all the powers
1250 necessary or convenient to carry out and effectuate the purposes
1251 and provisions of this article, including, but without limiting
1252 the generality of the foregoing, the power:

1253 (a) To make and alter bylaws for its organization and
1254 internal management;

1255 (b) To sue and be sued, have a seal and alter the same
1256 at pleasure, and maintain an office at such place or places in the
1257 state as it may determine;



1258 (c) To appoint officers, agents and employees,
1259 prescribe their duties and qualifications, and fix their
1260 compensation;

1261 (d) Consistent with Section 29-5-2.2, to acquire real
1262 or personal property, or any interest therein, by purchase,
1263 exchange, gift, assignment, transfer, foreclosure, lease,
1264 condemnation or otherwise, including rights or easements; to hold,
1265 manage, operate or improve real or personal property; to sell,
1266 assign, exchange, lease, encumber, mortgage or otherwise dispose
1267 of any real or personal property, or any interest therein, or deed
1268 of trust or mortgage lien interest owned by it or under its
1269 control, custody or in its possession and release or relinquish
1270 any right, title, claim, lien, interest, easement or demand
1271 however acquired, including any equity or right of redemption in
1272 property foreclosed by it and to do any of the foregoing by public
1273 sale;

1274 (e) To make and execute agreements, contracts and other
1275 instruments necessary or convenient to the exercise of the powers
1276 and functions of the corporation under this article;

1277 (f) To employ or contract with architects, engineers,
1278 attorneys, accountants, financial experts and other advisors as
1279 may be necessary in its judgment and to fix and pay their
1280 compensation;

1281 (g) To make and execute contracts for the
1282 administration, servicing or collection of any mortgage loan and



1283 pay the reasonable value of services rendered to the corporation
1284 pursuant to such contracts;

1285 (h) To contract for the employment of a financial
1286 advisor, underwriting attorneys, trustees, paying agents,
1287 depositories or any consultants retained in connection with the
1288 issuance of any bonds or notes including refunding bonds or notes
1289 or dealing with the disposition of any proceeds thereof;

1290 (i) To issue negotiable bonds and notes and to provide
1291 for the rights of the holders thereof;

1292 (j) Subject to any agreement with bondholders or
1293 noteholders, to sell any mortgage loans at public or private sale
1294 at the fair market value for such a mortgage; and

1295 (k) Subject to any agreement with bondholders and
1296 noteholders, to make, alter or repeal such rules and regulations
1297 with respect to the operations, properties and facilities of the
1298 corporation as are necessary to carry out its functions and duties
1299 in the administration of this article.

1300 (2) The corporation shall also have the power:

1301 (a) To make loans to mortgage lenders for the purpose
1302 of:

1303 (i) Making housing development mortgage loans to
1304 qualified sponsors for low and moderate income rental or
1305 residential housing;

1306 (ii) Making loans to low and moderate income
1307 purchasers of residential housing with preference to those who are



1308 displaced from adequate housing as a result of a major disaster,
1309 whether it be a man-made, technological or natural disaster, upon
1310 a declaration by the Governor that a major disaster exists in the
1311 state;

1312 (b) To purchase from mortgage lenders any of the loans
1313 enumerated in subparagraphs (i) and (ii);

1314 (c) To insure, reinsure or guarantee any of the types
1315 of loans enumerated in subparagraphs (i) and (ii);

1316 (d) To make, in such amounts and upon such terms and
1317 conditions as the corporation shall approve, temporary loans,
1318 preconstruction loans, interim financing loans to any qualified
1319 sponsor and permanent financing to any qualified sponsor of
1320 multifamily housing.

1321 (3) The corporation shall also have the power to make loans
1322 from funds not otherwise encumbered by pledge or indenture to low
1323 and moderate income persons for the following purposes:

1324 (a) Purchasing, improving or rehabilitating existing
1325 residential housing and occupied by the owners;

1326 (b) Making loans to qualified nonprofit sponsors, to
1327 local housing authorities and to owners of residential housing for
1328 the development, construction, purchase, rehabilitation,
1329 weatherization or maintenance of residential housing.

1330 (4) Using funds not otherwise encumbered by pledge or
1331 indenture, the corporation may:

1332 (a) Establish a rental assistance program;



1333 (b) Provide such advisory consultation, training and
1334 educational services as will assist in the planning, construction,
1335 rehabilitation and operation of housing, including but not limited
1336 to, assistance in community development and organization, home
1337 management and advisory services for residents, and in promotion
1338 of community organizations and local governments to assist in
1339 developing housing;

1340 (c) Encourage research and demonstration projects to
1341 develop new and better methods for increasing the supply, types
1342 and financing of housing and to receive and accept contributions,
1343 grants or aid from any source, public or private, including but
1344 not limited to the United States and this state, for carrying out
1345 this purpose;

1346 (d) Encourage and stimulate cooperatives and other
1347 forms of housing with tenant participation;

1348 (e) Promote innovative programs for home ownership,
1349 including but not limited to lease-purchase programs,
1350 employer-sponsored housing programs, tenant cooperatives and
1351 nonprofit associations;

1352 (f) Design and support programs to address special
1353 needs groups including, but not limited to, handicapped, disabled,
1354 elderly, homeless, HIV/AIDS carriers and families with children;

1355 (g) Develop a comprehensive plan for, and engage in a
1356 yearly planning process for, addressing the housing needs of low
1357 and moderate income persons in Mississippi.



1358 (5) The corporation also has the power:

1359 (a) To procure, or require the procurement of,
1360 insurance against any loss in connection with its operations,
1361 including without limitation the repayment of any mortgage loan or
1362 loans, in such amounts and from such insurers, including the
1363 federal government, as it may deem necessary or desirable, and to
1364 pay any premiums therefor;

1365 (b) Subject to any agreement with bondholders or
1366 noteholders: (i) to renegotiate any loan in default; (ii) to
1367 waive any default or consent to the modification of the terms of
1368 any loan or agreement; (iii) to commence, prosecute and enforce a
1369 judgment in any action or proceeding, including without limitation
1370 a foreclosure proceeding, to protect or enforce any right
1371 conferred upon it by law, mortgage loan agreement, contract or
1372 other agreement; and (iv) in connection with any such proceeding,
1373 to bid for and purchase the property or acquire or take possession
1374 thereof and, in such event, complete, administer and pay the
1375 principal of and interest on any obligations incurred in
1376 connection with such property and dispose of and otherwise deal
1377 with such property in such manner as the corporation may deem
1378 advisable to protect its interest therein;

1379 (c) To fix, revise, charge and collect fees and other
1380 charges in connection with the making of loans, the purchasing of
1381 mortgage loans, and any other services rendered by the
1382 corporation;



1383 (d) To arrange for guarantees of its bonds, notes or
1384 other obligations by the federal government or by any private
1385 insurer and to pay any premiums therefor;

1386 (e) Notwithstanding any law to the contrary, but
1387 subject to any agreement with bondholders or noteholders, to
1388 invest money of the corporation not required for immediate use,
1389 including proceeds from the sale of any bonds or notes;

1390 (i) In obligations of any municipality or the
1391 state or the United States of America;

1392 (ii) In obligations the principal and interest of
1393 which are guaranteed by the state or the United States of America;

1394 (iii) In obligations of any corporation wholly
1395 owned by the United States of America;

1396 (iv) In obligations of any corporation sponsored
1397 by the United States of America which are, or may become, eligible
1398 as collateral for advances to member banks as determined by the
1399 Board of Governors of the Federal Reserve System;

1400 (v) In obligations of insurance firms or other
1401 corporations whose investments are rated "A" or better by
1402 recognized rating companies;

1403 (vi) In certificates of deposit or time deposits
1404 of qualified depositories of the state as approved by the State
1405 Depository Commission, secured in such manner, if any, as the
1406 corporation shall determine;



1407 (vii) In contracts for the purchase and sale of
1408 obligations of the type specified in * * * subparagraphs (i)
1409 through (v) above;

1410 (viii) In repurchase agreements secured by
1411 obligations specified in * * * subparagraphs (i) through (v)
1412 above;

1413 (ix) In money market funds, the assets of which
1414 are required to be invested in obligations specified in * * *
1415 subparagraphs (i) through (vi) above;

1416 (f) Subject to any agreement with bondholders or
1417 noteholders, to purchase, and to agree to purchase, bonds or notes
1418 of the corporation at a price not exceeding: (i) if the bonds or
1419 notes are then redeemable, the redemption price then applicable
1420 plus accrued interest to the date of purchase; or (ii) if the
1421 bonds or notes are not then redeemable, the redemption price
1422 applicable on the first date after such purchase upon which the
1423 notes or bonds become subject to redemption at the option of the
1424 corporation plus accrued interest to the date of purchase;

1425 (g) Subject to the provisions of this article, to
1426 contract for and to accept any gifts, grants or loans of funds or
1427 property or financial or other aid in any form from federal, state
1428 or local governments, private or public entities, or individuals;

1429 (h) To enter into agreements or other transactions with
1430 the federal or state government, any agency thereof or any
1431 municipality in furtherance of the purposes of this article; to



1432 operate and administer loan programs of the federal government,
1433 the State of Mississippi, or any governmental agency thereof; and
1434 to operate and administer any program of housing assistance for
1435 persons and families of low or moderate income, however funded;

1436 (i) To establish a benevolent loan fund, housing
1437 development fund, or such additional and further funds as may be
1438 necessary and desirable to accomplish any corporate purpose or to
1439 comply with the provisions of any agreement made by the
1440 corporation or any resolution approved by the corporation. The
1441 resolution establishing such a fund shall specify the source of
1442 monies from which it shall be funded and the purposes for which
1443 monies held in the fund shall be disbursed;

1444 (j) In carrying out the provisions of this article, the
1445 corporation shall cooperate with the housing authorities created
1446 under Sections 43-33-1 through 43-33-69 and Sections 43-33-101
1447 through 43-33-137, Mississippi Code of 1972;

1448 (k) To accept letters of credit and other credit
1449 facilities necessary to make loans authorized herein to repay
1450 bonds or notes issued by the corporation;

1451 (l) To do any and all things necessary or convenient to
1452 carry out its purposes and exercise the powers given and granted
1453 in this article.

1454 **SECTION 8.** Section 45-11-7, Mississippi Code of 1972, is
1455 amended as follows:



1456 45-11-7. (1) There is hereby created a State Fire Academy
1457 for the training and education of persons engaged in municipal,
1458 county and industrial fire protection. The Commissioner of
1459 Insurance shall appoint an Executive Director of the State Fire
1460 Academy who, along with his employees, shall be designated as a
1461 division of the Insurance Department. The executive director
1462 shall serve at the pleasure of the Commissioner of Insurance. The
1463 State Fire Academy shall be under the supervision and direction of
1464 the Executive Director of the State Fire Academy. State Fire
1465 Academy training programs for fire personnel shall be conducted at
1466 the academy with seminars to be conducted in other sections of the
1467 state as and when the State Fire Academy Advisory Board considers
1468 it necessary and advisable.

1469 The Commissioner of Insurance may establish and charge
1470 reasonable fees for the training programs and other services
1471 provided by the academy. A record of all funds received pursuant
1472 to this paragraph shall be maintained as is required for other
1473 monies pursuant to Section 45-11-5.

1474 The Executive Director of the State Fire Academy is
1475 authorized and empowered to purchase, operate and maintain mobile
1476 fire fighting equipment as he may find necessary and proper for
1477 the operation of the academy subject to approval of the
1478 Commissioner of Insurance. The equipment may be utilized wherever
1479 training sessions may be held at the discretion of the State Fire
1480 Academy Advisory Board.



1481 (2) The Commissioner of Insurance shall be authorized to
1482 undertake appropriate action to accomplish and fulfill the
1483 purposes of the State Fire Academy, including the hiring of
1484 instructors and personnel, the lease and purchase of appropriate
1485 training equipment and to lease, purchase or construct suitable
1486 premises and quarters for conducting annual school and seminars,
1487 as the State Fire Academy Advisory Board may deem necessary and
1488 required for such purposes. Except for those contracts controlled
1489 by Section 29-5-2.2, any contract entered into under and by virtue
1490 of the provisions of this section shall first be submitted to and
1491 approved by the Public Procurement Review Board, and construction
1492 pursuant to the contract shall be under the supervision of the
1493 * * * Department of Finance and Administration.

1494 (3) Vouchers for operating expense for the State Fire
1495 Academy shall be signed by the Executive Director of the State
1496 Fire Academy and payment thereof shall be made from such funds to
1497 be derived from a special allocation from the State Fire Academy
1498 Fund as provided in Section 45-11-5.

1499 (4) The State Fire Academy is hereby officially designated
1500 as the agency of this state to conduct training for fire personnel
1501 on a statewide basis in which members of all duly constituted fire
1502 departments may participate. This subsection shall not be
1503 construed to affect the authority of any fire department to
1504 conduct training for its own personnel.



1505 (5) Each state agency, private agency or federal agency
1506 which provides training for the fire service shall coordinate such
1507 efforts with the State Fire Academy to prevent duplication of cost
1508 and to insure standardization of training.

1509 (6) The State Fire Academy shall present an appropriate
1510 certificate signifying the successful completion of its prescribed
1511 courses.

1512 (7) National fire fighter standards approved by the
1513 Mississippi Fire Personnel Minimum Standards and Certification
1514 Board shall be used as the basis for classroom instruction at the
1515 fire academy.

1516 (8) The Commissioner of Insurance, Executive Director of the
1517 State Fire Academy, and the Mississippi Fire Personnel Minimum
1518 Standards and Certification Board shall coordinate all state
1519 programs related to fire department operations.

1520 (9) The Commissioner of Insurance is hereby authorized and
1521 empowered to establish standard guidelines for the use of, and
1522 accountability for, municipal and county fire protection funds
1523 distributed pursuant to the provisions of Sections 83-1-37 and
1524 83-1-39, Mississippi Code of 1972. Such guidelines shall include
1525 requirements for the establishment of record keeping and reports
1526 to the Commissioner of Insurance by municipalities and counties
1527 relating to the receipt and expenditure of fire protection funds,
1528 the training of fire department personnel and the submission to
1529 the Commissioner of Insurance of other data reasonably related to



1530 local fire protection responsibilities which the Commissioner of
1531 Insurance deems necessary for the performance of the duties of the
1532 State Fire Academy Advisory Board.

1533 (10) In order that the Commissioner of Insurance may more
1534 effectively execute the duties imposed upon him by subsection (9)
1535 of this section, there is hereby created within the State Fire
1536 Academy a Division of Fire Services Development. The division
1537 shall be staffed by a Fire Services Development Coordinator,
1538 appointed by the executive director of the academy from his
1539 current staff and by such other personnel as deemed by the
1540 Commissioner of Insurance. The division shall work with municipal
1541 and county fire coordinators to ensure effective implementation of
1542 guidelines established pursuant to subsection (9) of this section
1543 and shall serve in an advisory capacity for all aspects of fire
1544 service improvement. The Fire Service Coordinator shall annually
1545 notify the Department of Finance and Administration of those
1546 municipalities and counties which are not eligible to receive a
1547 portion of fire protection fund distributions because of failure
1548 to comply with requirements imposed in Sections 83-1-37 and
1549 83-1-39 as a prerequisite to receipt of such funds.

1550 (11) There is created in the State Treasury a separate
1551 account to be known as the "State Fire Academy Construction Fund."
1552 The State Treasurer shall transfer on July 1, 1997, the sum of Six
1553 Hundred Seventy-five Thousand Dollars (\$675,000.00) and on July 1,
1554 1998, the sum of Six Hundred Seventy-five Thousand Dollars



1555 (\$675,000.00) from the State Fire Academy Fund 3502 into the
1556 separate account created in this subsection. Monies in such
1557 account shall be expended solely, upon legislative appropriations,
1558 to defray expenses related to the construction of capital
1559 improvements project known as "Fire Safety and Education Building"
1560 and parking areas at the State Fire Academy by the Bureau of
1561 Building, Grounds and Real Property Management of the Office of
1562 General Services and to pay any indebtedness incurred to
1563 accomplish such construction. Funds not used after the completion
1564 of this capital improvements project shall be transferred back
1565 into State Fund 3502.

1566 **SECTION 9.** Section 49-17-713, Mississippi Code of 1972, is
1567 amended as follows:

1568 49-17-713. (1) The utility board shall have the right and
1569 powers necessary to carry out the purposes of this act, including,
1570 but not limited to:

1571 (a) Make recommendations to the county authorities
1572 pertaining to water, wastewater and storm water issues in the Gulf
1573 Coast Region;

1574 (b) Make recommendations necessary to achieve
1575 compatibility and uniformity of systems and technology related to
1576 water, wastewater and storm water in the Gulf Coast Region;

1577 (c) Help resolve cross-jurisdictional and multicounty
1578 disputes pertaining to water, wastewater and storm water issues



1579 between county authorities when requested by the county
1580 authorities;

1581 (d) Recommend short-term and long-term priorities for
1582 water, wastewater and storm water related projects;

1583 (e) Recommend emergency preparedness procedures in the
1584 Gulf Coast Region related to water, wastewater and storm water;

1585 (f) Recommend training standards related to operations
1586 of water, wastewater and storm water systems;

1587 (g) Sue and be sued in its own name and to enjoy all
1588 the protections, immunities and benefits provided by the
1589 Mississippi Tort Claims Act, as it may be amended from time to
1590 time;

1591 (h) Adopt an official seal and alter the same at
1592 pleasure;

1593 (i) Maintain office space at such place or places
1594 within the boundaries of the board as it may determine;

1595 (j) Consistent with Section 29-5-2.2, own or lease real
1596 or personal property;

1597 (k) Invest money of the utility board, including
1598 proceeds from the sale of any bonds subject to any agreements with
1599 bond holders on such terms and in such manner as the utility board
1600 deems proper;

1601 (l) Apply for, accept and utilize grants, gifts and
1602 other funds from any source for any purpose necessary in support



1603 of the purpose of this act and to coordinate the distribution of
1604 funds to the county authorities;

1605 (m) Employ and terminate staff, including, but not
1606 limited to, attorneys, engineers and consultants as may be
1607 necessary;

1608 (n) Enter into contracts for all operation and
1609 maintenance needs of the utility board;

1610 (o) Enter into contracts to conduct studies of regional
1611 issues regarding water, wastewater and storm water services and to
1612 provide assistance, funds and guidance in the construction,
1613 operation and maintenance of regional water, wastewater and storm
1614 water services;

1615 (p) Consistent with Section 29-5-2.2, enter into
1616 contracts with any person or any public agency in furtherance of
1617 any of the purposes authorized by this act upon such consideration
1618 as the board of directors and such person may agree. Any such
1619 contract may extend over any period of time, including a term
1620 which extends beyond the term of the then majority of the existing
1621 board members, notwithstanding any provision or rule of law to the
1622 contrary; may be upon such terms and for such consideration,
1623 nominal or otherwise, as the parties thereto shall agree; and may
1624 provide that it shall continue in effect until bonds specified
1625 therein, refunding bonds issued in lieu of such bonds, and all
1626 other obligations specified therein are paid or terminated. Any
1627 such contract shall be binding upon the parties thereto according



1628 to its terms. The utility board may also assume or continue any
1629 contractual or other business relationships entered into by the
1630 members of the utility board, including the rights to receive and
1631 acquire property transferred under option to purchase agreements;

1632 (q) Contract with the authorities under any terms
1633 mutually agreed by the parties to carry out any powers, duties or
1634 responsibilities granted by this act or any other laws to the
1635 authorities;

1636 (r) Acquire insurance for the utility board's systems,
1637 facilities, buildings, treatment plants and all property, real or
1638 personal, to insure against all risks as any insurance may, from
1639 time to time, be available;

1640 (s) Make, enforce, amend and repeal rules and
1641 regulations for the management of the utility board's business and
1642 affairs;

1643 (t) Enter onto public or private lands, waters or
1644 premises for the purposes of making surveys, borings or soundings,
1645 or conducting tests, examinations or inspections for the purposes
1646 of the utility board, subject to responsibility for any damage
1647 done to property entered;

1648 (u) Consistent with Section 29-5-2.2, apply, contract
1649 for, accept, receive and administer gifts, grants, appropriations
1650 and donations of money, materials, and property of any kind,
1651 including loans and grants from the United States, the state, a
1652 unit of local government, or any agency, department, district or



1653 instrumentality of any of the foregoing, upon any terms and
1654 conditions as the United States, the state, a unit of local
1655 government, or any agency, department, district or instrumentality
1656 shall impose;

1657 (v) Create, maintain and regulate reservoirs and
1658 promulgate and enforce rules and regulations for the creation and
1659 maintenance of reservoirs; and

1660 (w) Make other recommendations to carry out the
1661 purposes of this act.

1662 (2) This section shall repeal July 1, 2016.

1663 **SECTION 10.** Section 49-19-5, Mississippi Code of 1972, is
1664 amended as follows:

1665 49-19-5. The State Forestry Commission is hereby authorized
1666 and empowered to acquire and dispose of property of all kinds in
1667 accordance with the provisions of * * * Sections 29-1-1 and
1668 29-5-2.2, in order to discharge the duties as set forth in Section
1669 49-19-3, and subsequent germane general laws of the State of
1670 Mississippi. Consistent with Section 29-5-2.2, it is further
1671 authorized to sell, rent, lease, and dispose of any property
1672 acquired by the commission * * *. All surplus property to be sold
1673 or disposed of shall be sold or disposed of in the manner provided
1674 by law for the sale or disposition of surplus property by other
1675 state agencies. Any funds received from the sale, rental or lease
1676 of any property herein authorized, to be acquired, shall be paid
1677 into the State Treasury to the credit of a special account, and



1678 the commission is hereby authorized to use this fund for the
1679 replacement, repairs, and upkeep of any property authorized to be
1680 acquired and owned under this section.

1681 **SECTION 11.** Section 51-8-29, Mississippi Code of 1972, is
1682 amended as follows:

1683 51-8-29. Districts created under this chapter shall have the
1684 powers set out in the creating resolution not inconsistent with
1685 the powers set forth in this chapter, and * * * consistent with
1686 Section 29-5-2.2, the power and authority to acquire, construct,
1687 reconstruct, improve, better, extend, consolidate, maintain and
1688 operate facilities and to contract with any municipality, person,
1689 firm or corporation for services and for a supply and distribution
1690 of water, for collection, transportation, treatment and/or
1691 disposal of sewage and for services required incident to the
1692 operation and maintenance of such systems. Except as provided
1693 elsewhere in this chapter, as long as any such district continues
1694 to furnish any of the services which it was authorized to furnish
1695 in and by the resolution by which it was created, it shall be the
1696 sole public corporation empowered to furnish such services within
1697 such district.

1698 Any district created pursuant to the provisions of this
1699 chapter shall be vested with all the powers necessary and
1700 requisite for the accomplishment of the purpose for which such
1701 district is created. No enumeration of powers herein shall be
1702 construed to impair or limit any general grant of power herein



1703 contained nor to limit any such grant to a power or powers of the
1704 same class or classes as those enumerated. Such districts are
1705 empowered to do all acts necessary, proper or convenient in the
1706 exercise of the powers granted under such sections.

1707 **SECTION 12.** Section 51-8-31, Mississippi Code of 1972, is
1708 amended as follows:

1709 51-8-31. Any district created pursuant to the provisions of
1710 this chapter, acting by and through the board of commissioners of
1711 such district as its governing authority, shall have, among
1712 others, the following powers:

1713 (a) To sue and be sued;

1714 (b) Consistent with Section 29-5-2.2, to acquire by
1715 purchase, gift, devise, lease or any other mode of acquisition,
1716 and to hold or dispose of, real and personal property of every
1717 kind within or without the district;

1718 (c) To make and enter into contracts, conveyances,
1719 mortgages, deeds of trust, bonds, leases or contracts for
1720 financial advisory services;

1721 (d) To incur debts, to borrow money, to issue
1722 negotiable bonds, and to provide for the rights of the holders
1723 thereof;

1724 (e) To fix, maintain, collect and revise rates and
1725 charges for services rendered by or through the facilities of such
1726 district, which rates and charges shall not be subject to review
1727 or regulation by the Mississippi Public Service Commission except



1728 in those instances where a city operating similar services would
1729 be subject to regulation and review; however, said district shall
1730 obtain a certificate of convenience and necessity from the
1731 Mississippi Public Service Commission for operating water and/or
1732 sewer systems;

1733 (f) To pledge all or any part of its revenues to the
1734 payment of its obligations;

1735 (g) To make such covenants in connection with the
1736 issuance of bonds or to secure the payment of bonds that a private
1737 business corporation can make under the general laws of the state;

1738 (h) To use any right-of-way, public right-of-way,
1739 easement, or other similar property or property rights necessary
1740 or convenient in connection with the acquisition, improvement,
1741 operation or maintenance of the facilities of such district held
1742 by the state or any political subdivision thereof; however, the
1743 governing body of such political subdivision shall consent to such
1744 use;

1745 (i) To enter into agreements with state and federal
1746 agencies for loans, grants, grants-in-aid, and other forms of
1747 assistance, including, but not limited to, participation in the
1748 sale and purchase of bonds;

1749 (j) Consistent with Section 29-5-2.2, to acquire by
1750 purchase, lease, gift, or otherwise, any existing works and
1751 facilities providing services for which it was created, and any
1752 lands, rights, easements, franchises and other property, real and



1753 personal, necessary to the completion and operation of such system
1754 upon such terms and conditions as may be agreed upon, and, if
1755 necessary as part of the acquisition price, to assume the payment
1756 of outstanding notes, bonds or other obligations upon such system;
1757 however, if any corporate agency owning such facilities desires to
1758 continue providing such services, the corporate agency shall so
1759 notify the district not later than ninety (90) days after the
1760 effective date of the creation of the district, and the district
1761 shall thereupon relinquish its right to provide such services
1762 until and unless the corporate agency elects otherwise or fails to
1763 adequately provide such services;

1764 (k) To extend its services to areas beyond but within
1765 one (1) mile of the boundaries of such district; however, no such
1766 extension shall be made to areas already occupied by another
1767 corporate agency rendering the same service so long as such
1768 corporate agency desires to continue to serve such areas. Areas
1769 outside of the district desiring to be served which are beyond the
1770 one-mile limit must be brought into the district by annexation
1771 proceedings;

1772 (l) To be deemed to have the same status as counties
1773 and municipalities with respect to payment of sales taxes on
1774 purchases made by such districts;

1775 (m) To borrow funds for interim financing subject to
1776 receipt of funds as outlined in Section 51-8-35;



1777 (n) To choose a location within the district as the
1778 central office of the district;

1779 (o) To adopt a plan for management of the water
1780 resources of the district, provided that such plan first be
1781 submitted to and approved by the Commission on Natural Resources
1782 as consistent with the state water management plan or objectives;

1783 (p) To hire such personnel and contract for such legal,
1784 technical, or other services as the board of commissioners deems
1785 necessary for the operation of the district and fulfillment of its
1786 water management objectives; and

1787 (q) To secure connection to or participation in the
1788 services provided by the district, including the power to obtain
1789 mandatory or prohibitory injunctive relief; provided, however,
1790 that the authority of the board of commissioners shall not be
1791 exercised in conflict with the regulatory and enforcement
1792 authority of the Commission on Natural Resources.

1793 **SECTION 13.** Section 51-9-121, Mississippi Code of 1972, is
1794 amended as follows:

1795 51-9-121. The Pearl River Valley Water Supply District
1796 through its board of directors is hereby empowered:

1797 (a) To impound overflow water and the surface water of
1798 the Pearl River or its tributaries within the project area, within
1799 or without this district at the place or places and in the amount
1800 as may be approved by the Office of Land and Water Resources of
1801 the State of Mississippi, by the construction of a dam or dams,



1802 reservoir or reservoirs, works, plants, and any other necessary or
1803 useful related facilities contemplated and described as a part of
1804 the project within or without the district, to control, store, and
1805 preserve these waters, and to use, distribute, and sell the same.
1806 The Pearl River Valley Water Supply District is also empowered to
1807 construct or otherwise acquire within the project area all works,
1808 plants, or other facilities necessary or useful to the project for
1809 the purpose of processing the water and transporting it to cities
1810 and others for domestic, municipal, commercial, industrial,
1811 agricultural, and manufacturing purposes and is hereby given the
1812 power to control open channels for water delivery purposes.

1813 (b) To acquire and develop any other available water
1814 necessary or useful to the project and to construct, acquire, and
1815 develop all facilities within the project area deemed necessary or
1816 useful with respect thereto.

1817 (c) To prevent or aid in the prevention of damage to
1818 person or property from the waters of the Pearl River or any of
1819 its tributaries.

1820 (d) To forest and reforest, and to aid in the foresting
1821 and reforesting of the project area, and to prevent and aid in the
1822 prevention of soil erosion and floods within this area; to
1823 control, store, and preserve within the boundaries of the project
1824 area the waters of the Pearl River or any of its tributaries, for
1825 irrigation of lands and for prevention of water pollution.



1826 (e) Consistent with Section 29-5-2.2, to acquire by
1827 purchase, lease, gift, or in any other manner (otherwise than by
1828 condemnation) and to maintain, use, and operate all property of
1829 any kind, real, personal, or mixed, or any interest therein within
1830 the project area, within or without the boundaries of the
1831 district, necessary for the project and convenient to the exercise
1832 of the powers, rights, privileges, and functions conferred upon
1833 the district by this article.

1834 (f) To acquire by condemnation all property of any
1835 kind, real, personal, or mixed, or any interest therein within the
1836 project area not exceeding one-quarter (1/4) mile from the outside
1837 line of the three hundred (300) feet above sea level contour on
1838 each side of the Pearl River except as provided for rights-of-way
1839 under subsection (g) of this section, within or without the
1840 boundaries of the district, necessary for the project and the
1841 exercise of the powers, rights, privileges, and functions
1842 conferred upon the district by this article, according to the
1843 procedure provided by law for the condemnation of lands or other
1844 property taken for rights-of-way or other purposes by railroads,
1845 telephone, or telegraph companies. For the purposes of carrying
1846 out this article, the right of eminent domain of the district
1847 shall be superior and dominant to the right of eminent domain of
1848 railroad, telegraph, telephone, gas, power, and other companies or
1849 corporations, and shall be sufficient to enable the acquisition of
1850 county roads, state highways, or other public property in the



1851 project area and the acquisition, or relocation, of the
1852 above-mentioned utility property in the project area; however,
1853 Mississippi Highway 43 as presently located shall be kept open as
1854 part of the state highway system. The cost of right-of-way
1855 purchases, rerouting, and elevating all other county maintained
1856 roads affected by construction of the reservoir shall be borne by
1857 the water district, and new construction shall be of equal quality
1858 as in roads existing as of May 5, 1958. The amount and character
1859 of interest in land, other property, and easements thus to be
1860 acquired shall be determined by the board of directors, and their
1861 determination shall be conclusive and shall not be subject to
1862 attack in the absence of manifold abuse of discretion or fraud on
1863 the part of such board in making such determination. However,

1864 (i) In acquiring lands, either by negotiation or
1865 condemnation, the district shall not acquire minerals or royalties
1866 within the project area; sand and gravel shall not be considered
1867 as minerals within the meaning of this section; * * *

1868 (ii) No person or persons owning the drilling
1869 rights or the right to share in production shall be prevented from
1870 exploring, developing, or producing oil or gas with necessary
1871 rights-of-way for ingress and egress, * * * pipelines, and other
1872 means of transporting these products by reason of the inclusion of
1873 such lands or mineral interests within the project area, whether
1874 below or above the * * * waterline; but any such activities shall



1875 be under such reasonable regulations by the board of directors as
1876 will adequately protect the reservoir; and

1877 (iii) In drilling and developing, these persons
1878 are hereby vested with a special right to have the mineral
1879 interest integrated and their lands developed in such drilling
1880 unit or units as the State Oil and Gas Board shall establish after
1881 due consideration of the rights of all of the owners to be
1882 included in the drilling unit.

1883 Moreover, where any site or plot of land is to be rented,
1884 leased, or sold to any person, firm, or corporation for the
1885 purpose of operating recreational facilities thereon for profit,
1886 then the board shall, by resolution, specify the terms and
1887 conditions of the sale, rental, or lease, and shall advertise for
1888 public bids thereon. When bids are received, they shall be
1889 publicly opened by the board, and the board shall thereupon
1890 determine the highest and best bid submitted and shall immediately
1891 notify the former owner of the site or plot of the amount, terms,
1892 and conditions of the highest and best bid. The former owner of
1893 the site or plot shall have the exclusive right at his option, for
1894 a period of thirty (30) days after the determination of the
1895 highest and best bid by the board, to rent, lease, or purchase
1896 said site or plot of land by meeting such highest and best bid and
1897 by complying with all terms and conditions of the renting,
1898 leasing, or sale as specified by the board. However, the board
1899 shall not in any event rent, lease, or sell to any former owner



1900 more land than was taken from the former owner for the
1901 construction of the project, or one-quarter (1/4) mile of
1902 shoreline, whichever is the lesser. If this option is not
1903 exercised by the former owner within a period of thirty (30) days,
1904 then the board shall accept the highest and best bid submitted.

1905 Any bona fide, resident householder, actually living or
1906 maintaining a residence on land taken by the district by
1907 condemnation shall have the right to repurchase not exceeding
1908 forty (40) acres of his former land or other available land from
1909 the board of directors for a price not exceeding the price paid
1910 for condemning his land.

1911 (g) To require the necessary relocation of roads and
1912 highways, railroad, telephone, and telegraph lines and properties,
1913 electric power lines, gas pipelines and mains and facilities in
1914 the project area, or to require the anchoring or other protection
1915 of any of these, provided due compensation is first paid the
1916 owners thereof or agreement is had with the owners regarding the
1917 payment of the cost of the relocation. It is further provided
1918 that the district is hereby authorized to acquire easements or
1919 rights-of-way in or outside of the project area for the relocation
1920 of the roads, highways, railroad, telephone, and telegraph lines
1921 and properties, electric power lines, gas pipelines and mains and
1922 facilities, and to convey the same to the owners thereof in
1923 connection with the relocation as a part of the construction of
1924 the project; however, the directors of the district shall not



1925 close any public access road to the reservoir existing prior to
1926 the construction of the reservoir unless the board of supervisors
1927 of the county in which the road is located agrees.

1928 (h) To overflow and inundate any public lands and
1929 public property, including sixteenth section lands and in_lieu
1930 lands, within the project area.

1931 (i) Consistent with Section 29-5-2.2, to construct,
1932 extend, improve, maintain, and reconstruct, to cause to be
1933 constructed, extended, improved, maintained, and reconstructed,
1934 and to use and operate facilities of any kind within the project
1935 area necessary or convenient to the project and to the exercise of
1936 such powers, rights, privileges, and functions.

1937 (j) To sue and be sued in its corporate name.

1938 (k) To adopt, use, and alter a corporate seal.

1939 (l) To make bylaws for the management and regulation of
1940 its affairs.

1941 (m) To employ engineers, attorneys, and all necessary
1942 agents and employees to properly finance, construct, operate, and
1943 maintain the project and the plants and facilities of the district
1944 and carry out the provisions of this article, and to pay
1945 reasonable compensation for the services. For all services in
1946 connection with the issuance of bonds as provided in this article,
1947 the attorney's fee shall not exceed one-quarter of one percent
1948 (1/4 of 1%) of the principal amount of said bonds. For any other
1949 services, only reasonable compensation shall be paid for these



1950 services. The board shall have the right to employ a general
1951 manager, who shall, at the discretion of the board, have the power
1952 to employ and discharge employees. Without limiting the
1953 generality of the foregoing, it may employ fiscal agents or
1954 advisors in connection with its financing program and in
1955 connection with the issuance of its bonds.

1956 (n) To make contracts and to execute instruments
1957 necessary or convenient to the exercise of the powers, rights,
1958 privileges, and functions conferred upon it by this article.

1959 (o) To make or cause to be made surveys and engineering
1960 investigations relating to the project, or related projects, for
1961 the information of the district to facilitate the accomplishment
1962 of the purposes for which it is created.

1963 (p) To apply for and accept grants from the United
1964 States of America, or from any corporation or agency created or
1965 designated by the United States of America, and to ratify and
1966 accept applications heretofore or hereafter made by voluntary
1967 associations to these agencies for grants to construct, maintain,
1968 or operate any project or projects which hereafter may be
1969 undertaken or contemplated by the district.

1970 (q) To do any other acts or things necessary or
1971 convenient to the exercising of the powers, rights, privileges, or
1972 functions conferred upon it by this article or any other law.

1973 (r) To make contracts in the issuance of bonds that may
1974 be necessary to insure the marketability thereof.



1975 (s) Consistent with Section 29-5-2.2, to enter into
1976 contracts with municipalities, corporations, districts, public
1977 agencies, political subdivisions of any kind, and others for any
1978 services, facilities or commodities that the project may provide.
1979 The district is also authorized to contract with any municipality,
1980 corporation, or public agency for the rental, leasing, purchase,
1981 or operation of the water production, water filtration or
1982 purification, water supply and distributing facilities of the
1983 municipality, corporation, or public agency upon such
1984 consideration as the district and such entity may agree. Any such
1985 contract may be upon any terms and for any time as the parties may
1986 agree, and it may provide that it shall continue in effect until
1987 bonds specified therein and refunding bonds issued in lieu of
1988 these bonds are paid. Any contract with any political subdivision
1989 shall be binding upon said political subdivision according to its
1990 terms, and any municipalities or other political subdivisions
1991 shall have the power to enter into such contracts as in the
1992 discretion of the governing authorities thereof would be to the
1993 best interest of the people of the municipality or other political
1994 subdivision. These contracts may include, within the discretion
1995 of the governing authorities, a pledge of the full faith and
1996 credit of the political subdivisions for the performance thereof.
1997 (t) To fix and collect charges and rates for any
1998 services, facilities, or commodities furnished by it in connection



1999 with the project, and to impose penalties for failure to pay these
2000 charges and rates when due.

2001 (u) To operate and maintain within the project area
2002 with the consent of the governing body of any city or town located
2003 within the district, any works, plants, or facilities of any city
2004 deemed necessary or convenient to the accomplishment of the
2005 purposes for which the district is created.

2006 (v) Subject to the provisions of this article and
2007 Section 29-5-2.2, from time to time to lease, sell, or otherwise
2008 dispose of any property of any kind, real, personal, or mixed, or
2009 any interest therein within the project area or acquired outside
2010 the project area as authorized in this article, for the purpose of
2011 furthering the business of the district.

2012 (w) When, in the opinion of the board of directors as
2013 shown by resolution duly passed, it shall not be necessary to the
2014 carrying on of the business of the district that the district own
2015 any lands acquired, then the board shall advertise these lands for
2016 sale to the highest and best bidder for cash and shall receive and
2017 publicly open the bids thereon. The board shall, by resolution,
2018 determine the highest and best bid submitted for such land and
2019 shall thereupon notify the former owner, his heirs or devisees, by
2020 registered mail of the land to be sold and the highest and best
2021 bid received therefor, and the former owner, or his heirs or
2022 devisees, shall have the exclusive right at his or their option



2023 for a period of thirty (30) days in which to meet the highest and
2024 best bid and to purchase the property.

2025 (x) In addition to, or in conjunction with, any other
2026 powers and duties of the district arising under this chapter, to
2027 exercise those powers, duties and functions of a joint water
2028 management district set forth in Sections 51-8-27 through 51-8-55,
2029 except the power of eminent domain under Section 51-8-33. Before
2030 exercising those powers and duties, the district must comply with
2031 the provisions of Sections 51-8-63 and 51-8-65. In exercising the
2032 functions of a joint water management district, the district may
2033 apply to the Environmental Quality Permit Board for delegation of
2034 those powers and duties as provided by Section 51-3-15, and to
2035 apply to the Mississippi Commission on Environmental Quality for
2036 delegation of those powers and duties provided by Section 51-3-21.

2037 Any transaction regarding any property under the provisions
2038 of this section shall be executed in accordance with the
2039 provisions of * * * Sections 29-1-1 and 29-5-2.2.

2040 **SECTION 14.** Section 51-11-11, Mississippi Code of 1972, is
2041 amended as follows:

2042 51-11-11. The district, through its board of directors, is
2043 hereby empowered:

2044 (a) To develop in conjunction with the United States
2045 Army Corps of Engineers, United States Secretary of Agriculture,
2046 United States Secretary of Interior, or with such other federal or
2047 state agency as may be involved, including agencies of the State



2048 of Louisiana, plans for public works of improvement for the
2049 preservation, conservation, development, storage, and regulation
2050 of soil and waters within the Pearl River Basin, including the
2051 impoundage, diversion, flowage, and distribution of waters for
2052 industrial, irrigational, or potable water supplies, the
2053 development of waters for navigation, and the prevention of
2054 floodwater damage; to enter into agreements with the United States
2055 of America, as represented by the United States Army Corps of
2056 Engineers or by such other federal agency as may be involved, to
2057 meet the requirements of local cooperation for flood control and
2058 navigation projects or other use of water as set out and
2059 authorized by public law of the United States, as now or hereafter
2060 amended.

2061 (b) To sue and be sued in its corporate name.

2062 (c) To adopt, use, and alter a corporate seal.

2063 (d) To make bylaws for the management and regulation of
2064 its affairs.

2065 (e) To make or cause to be made or to cooperate in
2066 making engineering surveys, feasibility studies, and cost-benefit
2067 estimates relating to the construction of dams, reservoirs, works,
2068 plants, or any other necessary related facilities for controlling,
2069 storing, using, and distributing, including to adjacent basins,
2070 the waters within the Pearl River Basin, or for the prevention of
2071 floodwater damage, for navigation therein, or for the use of its
2072 water resources for recreational purposes.



2073 (f) Consistent with Section 29-5-2.2, to acquire by
2074 purchase, lease, gift, or in other manner, other than by
2075 condemnation, and to maintain, use, and operate any and all
2076 property of any kind, real, personal, or mixed, or any interest
2077 therein within the boundaries of the district necessary for the
2078 purposes of the district.

2079 (g) To make contracts and to execute instruments
2080 necessary to the exercise of the powers, rights, privileges, and
2081 functions conferred upon the district by this chapter.

2082 (h) To apply for and accept grants or loans from the
2083 United States of America or from any corporation or agency created
2084 or designated by the United States of America, and to ratify and
2085 accept applications heretofore or hereafter made by voluntary
2086 associations to such agencies for grants to construct, maintain,
2087 or operate any project or projects which hereafter may be
2088 undertaken or contemplated by said district.

2089 (i) To employ an executive vice president who shall act
2090 as general manager of the district and who may, at the discretion
2091 of the board of directors, have the power to employ and discharge
2092 employees. The board of directors shall have the right to employ
2093 engineers, attorneys, and all agents and employees necessary to
2094 the exercising of the powers, rights, privileges, and functions
2095 conferred upon the district by this chapter or any other law, or
2096 necessary to properly finance, construct, operate, and maintain
2097 the projects and plants of the district; and the district may pay



2098 reasonable compensation for such services. For all services in
2099 connection with the issuance of bonds, the attorney's fee shall be
2100 in accordance with the following:

2101 1. On issues up to and including One Hundred
2102 Thousand Dollars (\$100,000.00), the attorney's fee shall not
2103 exceed one percent (1%) thereof.

2104 2. On issues over One Hundred Thousand Dollars
2105 (\$100,000.00), and including Three Hundred Thousand Dollars
2106 (\$300,000.00), the attorney's fee shall not exceed one-half
2107 percent (1/2%) thereof.

2108 3. On issues over Three Hundred Thousand Dollars
2109 (\$300,000.00), the attorney's fee shall not exceed one-fourth
2110 percent (1/4%) thereof; but for any issue the attorney shall
2111 receive a minimum fee of Two Hundred Fifty Dollars (\$250.00). For
2112 any other services, reasonable compensation shall be paid.

2113 (j) To do any and all other acts or things necessary to
2114 the exercising of the powers, rights, privileges, or functions
2115 conferred upon the district by this chapter or any other law.

2116 **SECTION 15.** Section 51-11-13, Mississippi Code of 1972, is
2117 amended as follows:

2118 51-11-13. The term "project" when used herein shall mean the
2119 general plans and purposes of the district, including without
2120 limitation physical properties and the location of reservoir or
2121 reservoirs, dam or dams, and related facilities, as approved by
2122 the district. The words "project area" shall mean any geographic



2123 area, as defined by a resolution of the board of directors of the
2124 district, located within (i) any county which is a member of the
2125 district or (ii) any portion of any other county which lies within
2126 the watershed area of the Pearl River and its tributaries. The
2127 district, through its board of directors, shall have, in addition
2128 to and without limitation upon the powers enumerated in Section
2129 51-11-11, the following powers:

2130 (a) To impound and appropriate for beneficial use
2131 overflow water and the surface water of the Pearl River or its
2132 tributaries within the project area at the place or places and in
2133 the manner and amount as may be approved by the Department of
2134 Environmental Quality, by the construction of a dam or dams,
2135 reservoir or reservoirs, work or works, plants, and any other
2136 necessary related facilities contemplated and described as a part
2137 of the project; to construct a dam or dams, reservoir or
2138 reservoirs, work or works, and any other necessary related
2139 facilities contemplated and described as a part of the project to
2140 control flooding on the Pearl River and its tributaries; to
2141 control, store, and preserve these waters and to use, distribute,
2142 and sell them; to construct or otherwise acquire within the
2143 project area all works, plants, or other facilities necessary to
2144 the project for the purpose of soil conservation or for the
2145 purpose of processing water and transporting it to cities and
2146 other facilities for domestic, municipal, commercial, industrial,
2147 agricultural, and manufacturing purposes; and to control open



2148 channels for delivery purposes and water transportation; provided,
2149 however, a decision by the board of directors to have a dam or
2150 reservoir constructed within a county may be vetoed by an
2151 affirmative vote of a majority of each of the boards of
2152 supervisors of any three (3) or more member counties of the
2153 district.

2154 (b) To acquire and develop any other available water
2155 necessary to the project and to construct, acquire, and develop
2156 all facilities within the project area deemed necessary with
2157 respect thereto, including terminals.

2158 (c) To forest and reforest, and to aid in the foresting
2159 and reforesting of, the project area and to prevent and aid in the
2160 prevention of soil erosion and flood within this area; to control,
2161 store, and preserve within the boundaries of the project area the
2162 waters of the Pearl River or any of its tributaries for irrigation
2163 of lands and for prevention of water pollution.

2164 (d) To acquire by condemnation all property or interest
2165 in property of any kind, real, personal, or mixed, within the
2166 Pearl River Basin, whether within or without the project area,
2167 strictly and presently necessary for the projects and the exercise
2168 of the powers, rights, privileges, and functions conferred upon
2169 the district by this chapter, according to the procedure provided
2170 by law for the condemnation of lands or other property taken for
2171 rights-of-way or other purposes by railroads, telephone or
2172 telegraph companies and according to the provisions of * * *



2173 Sections 29-1-1 and 29-5-2.2. No petition to condemn any property
2174 or any interest in any property shall be filed unless accompanied
2175 by a certificate by the United States Army Corps of Engineers or
2176 other federal agency, or by a competent engineer or engineering
2177 firm, stating that the property being acquired is necessary for
2178 the purposes of an approved project of the district. For the
2179 purposes of this chapter, the right of eminent domain of the
2180 district within the project area shall be superior and dominant to
2181 the right of eminent domain of railroad, telegraph, telephone,
2182 gas, power, and other companies or corporations and shall be
2183 sufficient to enable the acquisition and relocation of county
2184 roads, state highways, or other public property within the project
2185 area. The cost of right-of-way purchases, rerouting, and
2186 elevating all other county-maintained roads affected by
2187 constructions shall be borne by the district, and new construction
2188 shall be of equal quality as in roads existing as of January 1,
2189 1984. The county in which this work is done may assist in these
2190 costs if the board of supervisors so desires.

2191 The amount and character of interest in land, other property,
2192 and easements to be acquired shall be determined by the board of
2193 directors on the basis of the proven needs of the particular
2194 project or projects involved. The board of directors shall make
2195 this determination in compliance with the provisions of Section
2196 29-1-1. However,



2197 (i) In acquiring lands, either by negotiation or
2198 condemnation, the district shall not acquire minerals or
2199 royalties; sand and gravel shall not be considered as minerals
2200 within the meaning of this section; however, where land is
2201 condemned for easement purposes only, the sand and gravel
2202 contained therein or thereunder shall not be condemned, except to
2203 the extent necessary for these easement purposes, but may be
2204 acquired in full by negotiation; and

2205 (ii) No person or persons owning the drilling
2206 rights or the right to share in production or mining shall be
2207 prevented from exploring, developing, or producing oil or gas or
2208 sand and gravel with necessary rights-of-way for ingress and
2209 egress, pipelines, and other means of transporting these products
2210 by reason of the inclusion of the lands or mineral interests or
2211 sand and gravel within the project area, whether below or above
2212 the waterline, but these activities shall be under reasonable
2213 regulations by the board of directors as will adequately protect
2214 the project.

2215 (e) To require the necessary relocation of roads,
2216 highways, railroad, telephone, and telegraph lines and properties,
2217 electric power lines, gas pipelines and mains and facilities in
2218 the project area, or to require the anchoring or other protection
2219 of any of these, provided due compensation is first paid the
2220 owners thereof or agreement is had with the owners regarding the
2221 payment of the cost of such relocation. Further, the district is



2222 hereby authorized to acquire easements or rights-of-way in or
2223 outside of the project area for the relocation of roads, highways,
2224 railroad, telephone, and telegraph lines and properties, electric
2225 power lines, gas pipelines and mains and facilities, and to convey
2226 them to the owners thereof in connection with relocation as a part
2227 of the construction of the project.

2228 (f) To overflow and inundate any public lands and
2229 public property, including sixteenth section lands and lieu lands,
2230 within the project area.

2231 (g) To construct, extend, improve, maintain, and
2232 reconstruct, to cause to be constructed, extended, improved,
2233 maintained, and reconstructed, and to use and operate all
2234 facilities of any kind within the project area necessary to the
2235 project.

2236 (h) To employ engineers, attorneys, and all necessary
2237 agents and employees to properly finance, construct, operate, and
2238 maintain the project and the plants, and to pay reasonable
2239 compensation for these services.

2240 (i) To make contracts in the issuance of bonds as may
2241 be necessary to insure the marketability thereof.

2242 (j) Consistent with Section 29-5-2.2, to enter into
2243 contracts with municipalities, corporations, districts, public
2244 agencies, political subdivisions of any kind, and others for any
2245 services, facilities, or commodities which the project may
2246 provide; to contract with any municipality, corporation or public



2247 agency for the rental, leasing, purchase, or operation of water
2248 production, water filtration or purification, water supply and
2249 distributing facilities of such upon consideration as the district
2250 and the entity may agree. Any contract may be upon any terms and
2251 for any time as the parties may agree, may provide that it shall
2252 continue in effect until bonds specified therein, refunding bonds
2253 issued in lieu of these bonds, and all obligations are paid. Any
2254 contract with any political subdivision shall be binding upon the
2255 political subdivisions according to its terms, and the
2256 municipalities or other political subdivisions shall have the
2257 power to enter into these contracts as in the discretion of the
2258 governing authorities thereof would be to the best interest of the
2259 people of the municipality or other political subdivision. The
2260 contracts may include within the discretion of the governing
2261 authorities a pledge of the full faith and credit of the political
2262 subdivisions for the performance thereof.

2263 (k) To fix and collect charges and rates for any
2264 service, facilities, or commodities furnished by it in connection
2265 with the project and to impose penalties for failure to pay these
2266 charges and rates when due.

2267 (l) To operate and maintain within the project area,
2268 with the consent of the governing body of any located within the
2269 district, any works, plants, or facilities deemed necessary to the
2270 accomplishment of the purposes for which the district is created.



2271 (m) Subject to the provisions of this chapter, from
2272 time to time to lease, sell, or otherwise lawfully dispose of
2273 property of any kind, real, personal, or mixed, or any interest
2274 therein within the project area or acquired outside the project
2275 area as authorized in this chapter, for the purpose of furthering
2276 the business of the district.

2277 (n) When, in the opinion of the board of directors as
2278 shown by resolution duly passed, it shall not be necessary to the
2279 carrying on of the business of the district that the district own
2280 any lands acquired, the board shall advertise these lands for sale
2281 to the highest and best bidder for cash, and shall receive and
2282 publicly open the bids thereon.

2283 (o) In the purchase of or in the entering into of all
2284 lease purchase agreements for supplies, equipment, heavy
2285 equipment, and the like, the directors shall in all instances
2286 comply with the provisions of law pertaining to public purchases
2287 by public bids on such supplies and equipment.

2288 (p) In addition to, or in conjunction with, any other
2289 powers and duties of the district arising under this chapter, to
2290 exercise those powers, duties and functions of a joint water
2291 management district set forth in Sections 51-8-27 through 51-8-55,
2292 except the power of eminent domain under Section 51-8-33. Before
2293 exercising those powers and duties, the district must comply with
2294 the provisions of Sections 51-8-63 and 51-8-65. In exercising the
2295 functions of a joint water management district, the district may



2296 apply to the Environmental Quality Permit Board for delegation of
2297 those powers and duties as provided by Section 51-3-15, and to
2298 apply to the Mississippi Commission on Environmental Quality for
2299 delegation of those powers and duties provided by Section 51-3-21.

2300 (q) To create a flood control district within the Pearl
2301 River Basin Development District as provided under Sections
2302 51-11-53 through 51-11-85.

2303 **SECTION 16.** Section 51-13-111, Mississippi Code of 1972, is
2304 amended as follows:

2305 51-13-111. The Tombigbee River Valley Water Management
2306 District through its board of directors is hereby empowered:

2307 (a) To develop, in conjunction with the United States
2308 Army Corps of Engineers, United States Secretary of Agriculture,
2309 or with the head of any other federal or state agency as may be
2310 involved, plans for public works of improvement for the prevention
2311 of floodwater damage, or the conservation, development,
2312 navigation, utilization and disposal of water, including the
2313 impoundment, diversion, flowage and distribution of waters for
2314 beneficial use as defined in Chapter 3 of this title.

2315 To enter into agreements with the United States of America,
2316 as represented by the United States Army Corps of Engineers, to
2317 meet the requirements of local cooperation for flood control and
2318 navigation projects as set out in House Document No. 167, 84th
2319 Congress, First Session, as authorized by Public Law 85-500, 85th
2320 Congress, dated July 3, 1958, as amended, and House Document No.



2321 486, 79th Congress, Second Session, as approved by Public Law 525,
2322 79th Congress, as amended.

2323 (b) To impound overflow water and the surface water of
2324 the Tombigbee River or its tributaries within the project area,
2325 within or without the district, at the place or places and in the
2326 amount as may be approved by the Office of Land and Water
2327 Resources of the State of Mississippi, by the construction of a
2328 dam or dams, reservoir or reservoirs, work or works, plants and
2329 any other necessary or useful related facilities contemplated and
2330 described as a part of the project, within or without the
2331 district, to control, store and preserve these waters, and to use,
2332 distribute, and sell them, to construct or otherwise acquire
2333 within the project area all works, plants, or other facilities
2334 necessary or useful to the project for processing the water and
2335 transporting it to cities and other facilities for domestic,
2336 municipal, commercial, industrial, agricultural and manufacturing
2337 purposes, and is hereby given the power to control open channels
2338 for water delivery purposes and water transportation.

2339 (c) To acquire and develop any other available water
2340 necessary or useful to the project and to construct, acquire and
2341 develop all facilities within the project area deemed necessary or
2342 useful with respect thereto, including terminals.

2343 (d) To forest and reforest, and to aid in the foresting
2344 and reforesting of the project area, and to prevent and to aid in
2345 the prevention of soil erosion and flood within the area; to



2346 control, store, and preserve within the boundaries of the project
2347 area the waters of the Tombigbee River or any of its tributaries
2348 for irrigation of lands and for prevention of water pollution.

2349 (e) To acquire by condemnation all property of any
2350 kind, real, personal, or mixed, or any interest therein, within or
2351 without the boundaries of the district, necessary for the projects
2352 and the exercise of the powers, rights, privileges and functions
2353 conferred upon the district by this article, according to the
2354 procedure provided by law for the condemnation of lands or other
2355 property taken for rights-of-way or other purposes by railroads,
2356 telephone, or telegraph companies, and according to the provisions
2357 of * * * Sections 29-1-1 and 29-5-2.2. For the purposes of this
2358 article the right of eminent domain of the district shall be
2359 superior and dominant to the right of eminent domain of railroad,
2360 telegraph, telephone, gas, power and other companies or
2361 corporations and shall be sufficient to enable the acquisition of
2362 county roads, state highways, or other public property in the
2363 project area, and the acquisition or relocation of this property
2364 in the project area. The cost of right-of-way purchases,
2365 rerouting and elevating all other county-maintained roads affected
2366 by construction shall be borne by the water management district,
2367 and new construction shall be of equal quality as in roads
2368 existing as of May 1, 1962. The county in which the work is done
2369 may assist in these costs if the board of supervisors desires.



2370 The amount and character of interest in land, other property,
2371 and easements to be acquired shall be determined by the board of
2372 directors, and their determination shall be conclusive and shall
2373 not be subject to attack in the absence of manifold abuse of
2374 discretion or fraud on the part of such board in making such
2375 determination. However,

2376 (i) In acquiring lands, either by negotiation or
2377 condemnation, the district shall not acquire minerals or royalties
2378 within the project area; sand and gravel shall not be considered
2379 as minerals within the meaning of this section; and

2380 (ii) No person or persons owning the drilling
2381 rights or the right to share in production shall be prevented from
2382 exploring, developing, or producing oil or gas with necessary
2383 rights-of-way for ingress and egress, pipelines, and other means
2384 of transporting these products by reason of the inclusion of the
2385 lands or mineral interests within the project area, whether below
2386 or above the waterline, but any activities shall be under
2387 reasonable regulations by the board of directors that will
2388 adequately protect the project; and

2389 (iii) In drilling and developing, these persons
2390 are hereby vested with a special right to have mineral interests
2391 integrated and their lands developed in the drilling unit or units
2392 that the State Oil and Gas Board shall establish after due
2393 consideration of the rights of all owners to be included in the
2394 drilling unit.



2395 Moreover, when any site or plot of land is to be sold to any
2396 person, firm, or corporation for the purpose of operating
2397 recreational facilities thereon for profit, the board shall, by
2398 resolution, specify the terms and conditions of the sale and shall
2399 advertise for public bids thereon. When these bids are received,
2400 they shall be publicly opened by the board, and the board shall
2401 thereupon determine the highest and best bid submitted and shall
2402 immediately notify the former owner of the site or plot of the
2403 amount, terms, and conditions of the highest and best bid. The
2404 former owner of the site or plot shall have the exclusive right at
2405 his option, for a period of thirty (30) days after written notice
2406 is received by the landowner of the determination of the highest
2407 and best bid by the board, to purchase the site or plot of land by
2408 meeting the highest and best bid and by complying with all terms
2409 and conditions of the sale as specified by the board. However,
2410 the board shall not sell to any former owner more land than was
2411 taken from the former owner for the construction of the project,
2412 or one-quarter (1/4) mile of shoreline, whichever shall be the
2413 lesser. If this option is not exercised by the former owner
2414 within a period of thirty (30) days, the board shall accept the
2415 highest and best bid submitted.

2416 Any bona fide resident householder actually living or
2417 maintaining a residence on land taken by the district by
2418 condemnation shall have the right to repurchase his former land



2419 from the board of directors for a price not exceeding the price
2420 paid for condemning his land, plus any permanent improvements.

2421 In addition and notwithstanding any other provision in this
2422 section to the contrary, the board may lease or rent all or any
2423 portion of any property that it owns to any person, firm, or
2424 corporation for the purpose of operating recreational facilities
2425 for profit or not for profit or for any other public purpose
2426 provided the land is open for the use of the general public or is
2427 otherwise used for the public benefit and upon any other terms and
2428 conditions as the board may determine. The leasing or renting of
2429 all or any portion of any such land upon said conditions shall
2430 require a resolution duly adopted by the board and shall be exempt
2431 from any bid requirements in this section.

2432 (f) To require the necessary relocation of roads and
2433 highways, railroad, telephone, and telegraph lines and properties,
2434 electric power lines, gas pipelines and mains and facilities in
2435 the project area, or to require the anchoring or other protection
2436 of any of these, provided due compensation is first paid the
2437 owners thereof or agreement is had with the owners regarding the
2438 payment of the cost of relocation. Further, the district is
2439 hereby authorized to acquire easements or rights-of-way in or
2440 outside of the project area for the relocation of roads, highways,
2441 railroad, telephone, and telegraph lines and properties, electric
2442 power lines, gas pipelines and mains and facilities, and to convey
2443 them to the owners thereof in connection with the relocation as a



2444 part of the construction of the project. However, the directors
2445 of the district shall not close any public access road to the
2446 project existing prior to the construction of the reservoir unless
2447 the board of supervisors of the county in which the road is
2448 located agrees thereto.

2449 (g) To overflow and inundate any public lands and
2450 public property, including sixteenth section lands and in lieu
2451 lands, within the project area.

2452 (h) Consistent with Section 29-5-2.2, to construct,
2453 extend, improve, maintain and reconstruct, to cause to be
2454 constructed, extended, improved, maintained and reconstructed, and
2455 to use and operate all facilities of any kind within the project
2456 area necessary or convenient to the project and to the exercise of
2457 powers, rights, privileges and functions.

2458 (i) To sue and be sued in its corporate name.

2459 (j) To adopt, use, and alter a corporate seal.

2460 (k) To make bylaws for the management and regulation of
2461 its affairs.

2462 (l) To employ engineers, attorneys, and all necessary
2463 agents and employees to properly finance, construct, operate, and
2464 maintain the project and the plants and to pay reasonable
2465 compensation for these services; for all services in connection
2466 with the issuance of bonds as provided in this article, the
2467 attorney's fee shall not exceed one-quarter of one percent (1/4 of
2468 1%) of the principal amount of these bonds. For any other



2469 services, only reasonable compensation shall be paid for these
2470 services. The board shall have the right to employ a general
2471 manager, who shall, at the discretion of the board, have the power
2472 to employ and discharge employees. Without limiting the
2473 generality of the foregoing, it may employ fiscal agents or
2474 advisors in connection with its financing program and in
2475 connection with the issuance of its bonds.

2476 (m) To make contracts and to execute instruments
2477 necessary or convenient to the exercise of the powers, rights,
2478 privileges, and functions conferred upon it by this article.

2479 (n) To make or cause to be made surveys and engineering
2480 investigations relating to the project, or related projects, for
2481 the information of the district to facilitate the accomplishment
2482 of the purposes for which it is created.

2483 (o) To apply for and accept grants from the United
2484 States of America, or from any corporation or agency created or
2485 designated by the United States of America, and to ratify and
2486 accept applications heretofore or hereafter made by voluntary
2487 associations to these agencies for grants to construct, maintain
2488 or operate any project or projects which hereafter may be
2489 undertaken or contemplated by the district.

2490 (p) To do any other acts or things necessary,
2491 requisite, or convenient to the exercising of the powers, rights,
2492 privileges or functions conferred upon it by this article or any
2493 other law.



2494 (q) To make contracts in the issuance of bonds that may
2495 be necessary to insure the marketability thereof.

2496 (r) Consistent with Section 29-5-2.2, to enter into
2497 contracts with municipalities, corporations, districts, public
2498 agencies, political subdivisions of any kind, and others for any
2499 services, facilities or commodities that the project may provide.
2500 The district is also authorized to contract with any municipality,
2501 corporation, or public agency for the rental, leasing, purchase,
2502 or operation of the water production, water filtration or
2503 purification, water supply and distributing facilities of the
2504 municipality, corporation, or public agency upon consideration as
2505 the district and entity may agree. Any contract may be upon any
2506 terms and for any time as the parties may agree, and it may
2507 provide that it shall continue in effect until bonds specified
2508 therein, refunding bonds issued in lieu of these bonds, and all
2509 obligations are paid. Any contract with any political subdivision
2510 shall be binding upon these political subdivisions according to
2511 its terms, and the municipalities or other political subdivisions
2512 shall have the power to enter into these contracts as in the
2513 discretion of the governing authorities thereof would be to the
2514 best interest of the people of the municipality or other political
2515 subdivision. These contracts may include, within the discretion
2516 of the governing authorities, a pledge of the full faith and
2517 credit of the political subdivisions for the performance thereof.



2518 (s) To fix and collect charges and rates for any
2519 services, facilities or commodities furnished by it in connection
2520 with the project, and to impose penalties for failure to pay these
2521 charges and rates when due.

2522 (t) To operate and maintain within the project area,
2523 with the consent of the governing body of any city or town located
2524 within the district, any works, plants or facilities of any city
2525 deemed necessary or convenient to the accomplishment of the
2526 purposes for which the district is created.

2527 (u) Subject to the provisions of this article and
2528 Section 29-5-2.2, from time to time to lease, sell, or otherwise
2529 lawfully dispose of any property of any kind, real, personal, or
2530 mixed, or any interest therein within the project area or acquired
2531 outside the project area as authorized in this article, for the
2532 purpose of furthering the business of the district.

2533 (v) When, in the opinion of the board of directors as
2534 shown by resolution duly passed, it shall not be necessary to the
2535 carrying on of the business of the district that the district own
2536 any lands acquired, the board shall advertise these lands for sale
2537 to the highest and best bidder for cash and shall receive and
2538 publicly open the bids thereon. The board shall, by resolution,
2539 determine the highest and best bid submitted for the land and
2540 shall thereupon notify the former owner, his/her heirs or
2541 devisees, by registered mail of the land to be sold and the
2542 highest and best bid received therefor, and the former owner, or



2543 his/her heirs or devisees, shall have the exclusive right at
2544 his/her or their option for a period of thirty (30) days in which
2545 to meet such highest and best bid and to purchase the property.
2546 Provided further, that the board may transfer title to that
2547 certain property known as the Trace State Park in Pontotoc County
2548 to the Department of Environmental Quality; provided, however,
2549 that any of the property that is under current lease shall not be
2550 included in the transfer. Such transfer of title shall require a
2551 resolution duly adopted by the board and by the Commission on
2552 Environmental Quality and shall be exempt from any bid
2553 requirements herein. In addition, the board may transfer title to
2554 that certain property known as the Elvis Presley Park in Lee
2555 County to Lee County, Mississippi, upon the terms and conditions
2556 as it may determine. The transfer of title shall require a
2557 resolution duly adopted by the board and shall be exempt from any
2558 bid requirement in this section. In addition, the board may
2559 transfer title to all or any portion of that certain property
2560 known as the Elvis Presley Park in Lee County to the Mississippi
2561 Department of Wildlife, Fisheries and Parks upon the terms and
2562 conditions as it may determine, including, but not limited to,
2563 authorizing the board to pay the sum of Two Hundred Thousand
2564 Dollars (\$200,000.00) to the Mississippi Department of Wildlife,
2565 Fisheries and Parks at the time of the transfer with such funds to
2566 be used by the Mississippi Department of Wildlife, Fisheries and
2567 Parks for the construction of an office building on the Elvis



2568 Presley Park for use by the Mississippi Department of Wildlife,
2569 Fisheries and Parks. Such transfer of title and the payment of
2570 such sum of money shall require a resolution duly adopted by the
2571 board and by the Mississippi Department of Wildlife, Fisheries and
2572 Parks and shall be exempt from any bid requirement in this
2573 section.

2574 (w) To prevent or aid in the prevention of damages to
2575 persons or property from the waters of the Tombigbee River or any
2576 of its tributaries.

2577 (x) Consistent with Section 29-5-2.2, to acquire by
2578 purchase, lease, gift or in any other manner (otherwise than by
2579 condemnation) and to maintain, use, and operate all property of
2580 any kind, real, personal, or mixed, or any interest therein within
2581 the project area, within or without the boundaries of the
2582 district, necessary for the project and convenient to the exercise
2583 of the powers, rights, privileges and functions conferred upon the
2584 district by this article.

2585 (y) In the purchase of or in the entering into of all
2586 lease-purchase agreements for supplies, equipment, heavy
2587 equipment, and the like, the directors shall in all instances
2588 comply with the provisions of law pertaining to public purchases
2589 by public bids on these supplies and equipment.

2590 (z) In addition to, or in conjunction with, any other
2591 powers and duties of the district arising under this chapter, to
2592 exercise those powers, duties and functions of a joint water



2593 management district set forth in Sections 51-8-27 through 51-8-55,
2594 except the power of eminent domain under Section 51-8-33. Before
2595 exercising those powers and duties, the district must comply with
2596 the provisions of Sections 51-8-63 and 51-8-65. In exercising the
2597 functions of a joint water management district, the district may
2598 apply to the Environmental Quality Permit Board for delegation of
2599 those powers and duties as provided by Section 51-3-15, and to
2600 apply to the Mississippi Commission on Environmental Quality for
2601 delegation of those powers and duties provided by Section 51-3-21.

2602 **SECTION 17.** Section 51-15-119, Mississippi Code of 1972, is
2603 amended as follows:

2604 51-15-119. (1) The Pat Harrison Waterway District through
2605 its board of directors is hereby empowered:

2606 (a) To develop in conjunction with the United States
2607 Army Corps of Engineers, United States Secretary of Agriculture,
2608 or with the head of any other federal or state agency as may be
2609 involved, plans for public works of improvement to make navigable
2610 or for the prevention of flood water damage, or the conservation,
2611 development, recreation, utilization and disposal of water,
2612 including the impoundment, diversion, flowage and distribution of
2613 waters for beneficial use as defined in Article 1 of this chapter,
2614 and in connection with the Oktibbeha River Basin project as
2615 authorized under Public Law 874, 87th Congress, October 23, 1962,
2616 and substantially in accordance with the recommendation of the
2617 Chief of Engineers in House Document 549 of the 87th Congress.



2618 (b) To impound overflow water and the surface water of
2619 any streams in the Pat Harrison Waterway District or its
2620 tributaries within the project area, within or without the
2621 district, at the place or places and in the amount as may be
2622 approved by the Office of Land and Water Resources of the State of
2623 Mississippi, by the construction of a dam or dams, reservoir or
2624 reservoirs, work or works, plants and any other necessary or
2625 useful related facilities contemplated and described as a part of
2626 the project within and without the district, to control, store,
2627 and preserve these waters, and to use, distribute, and sell them,
2628 to construct or otherwise acquire within the project area all
2629 works, plants or other facilities necessary or useful to the
2630 project for processing the water and transporting it to cities and
2631 other facilities necessary or useful to the project for the
2632 purpose of processing the water and transporting it to cities and
2633 other facilities for domestic, municipal, commercial, industrial,
2634 agricultural and manufacturing purposes, and is hereby given the
2635 power to control open channels for water delivery purposes and
2636 water transportation.

2637 (c) To acquire and develop any other available water
2638 necessary or useful to the project and to construct, acquire, and
2639 develop all facilities within the project area deemed necessary or
2640 useful with respect thereto.

2641 (d) To forest and reforest and to aid in the foresting
2642 and reforesting of the project area, and to prevent and aid in the



2643 prevention of soil erosion and flood within the area; to control,
2644 store and preserve within the boundaries of the project area the
2645 waters of any streams in the area, for irrigation of lands and for
2646 prevention of water pollution.

2647 (e) To acquire by condemnation all property of any
2648 kind, real, personal or mixed, or any interest therein, within or
2649 without the boundaries of the district, necessary for the project
2650 and the exercise of the powers, rights, privileges and functions
2651 conferred upon the district by this article, according to the
2652 procedure provided by law for the condemnation of lands or other
2653 property taken for rights-of-way or other purposes by railroad,
2654 telephone or telegraph companies and according to the provisions
2655 of * * * Sections 29-1-1 and 29-5-2.2. For the purposes of this
2656 article the right of eminent domain of the district shall be
2657 superior and dominant to the right of eminent domain of railroad,
2658 telegraph, telephone, gas, power and other companies or
2659 corporations and shall be sufficient to enable the acquisition of
2660 county roads, state highways or other public property in the
2661 project area, and the acquisition or relocation of this property
2662 in the project area. The cost of right-of-way purchases, rerouting
2663 and elevating all other county-maintained roads affected by
2664 construction shall be borne by the water management district, and
2665 new construction shall be of equal quality as in roads existing as
2666 of June 1, 1962. The county in which such work is done may assist
2667 in these costs if the board of supervisors desires.



2668 The amount and character of interest in land, other property
2669 and easements to be acquired shall be determined by the board of
2670 directors, and their determination shall be conclusive and shall
2671 not be subject to attack in the absence of manifold abuse of
2672 discretion or fraud on the part of such board in making this
2673 determination. However,

2674 (i) In acquiring lands, either by negotiation or
2675 condemnation, the district shall not acquire minerals or royalties
2676 within the project area; sand and gravel shall not be considered
2677 as minerals within the meaning of this section; and

2678 (ii) No person or persons owning the drilling
2679 rights or the right to share in production shall be prevented from
2680 exploring, developing or producing oil or gas with necessary
2681 rights-of-way for ingress and egress, pipelines and other means of
2682 transporting these products by reason of the inclusion of the
2683 lands or mineral interests within the project area, whether below
2684 or above the water line, but any activities shall be under
2685 reasonable regulations by the board of directors that will
2686 adequately protect the project; and

2687 (iii) In drilling and developing, these persons
2688 are hereby vested with a right to have mineral interests
2689 integrated and their lands developed in the drilling unit or units
2690 that the State Oil and Gas Board shall establish after due
2691 consideration of the rights of all owners to be included in the
2692 drilling unit.



2693 Moreover, when any site or plot of land is to be rented,
2694 leased or sold to any person, firm or corporation for the purpose
2695 of operating recreational facilities thereon for profit, the board
2696 shall, by resolution, specify the terms and conditions of the
2697 sale, rental or lease, and shall advertise for public bids
2698 thereon. When these bids are received, they shall be publicly
2699 opened by the board, and the board shall thereupon determine the
2700 highest and best bid submitted and shall immediately notify the
2701 former owner of the site or plot of the amount, terms and
2702 conditions of the highest and best bid. The former owner of the
2703 site or plot shall have the exclusive right at his option, for a
2704 period of thirty (30) days after written notice is received by the
2705 land owner of the determination of the highest and best bid by the
2706 board, to rent, lease or purchase the site or plot of land by
2707 meeting the highest and best bid and by complying with all terms
2708 and conditions of renting, leasing or sale as specified by the
2709 board. However, the board shall not in any event rent, lease or
2710 sell to any former owner more land than was taken from the former
2711 owner for the construction of the project, or one-quarter (1/4)
2712 mile of shore line, whichever is lesser. If this option is not
2713 exercised by the former owner within a period of thirty (30) days,
2714 the board shall accept the highest and best bid submitted.

2715 Any bona fide, resident householder actually living or
2716 maintaining a residence on land taken by the district by
2717 condemnation shall have the right to repurchase his former land



2718 from the board of directors for a price not exceeding the price
2719 paid for his land, plus any permanent improvements and plus the
2720 cost of condemnation.

2721 (f) To require the necessary relocation of roads and
2722 highways, railroad, telephone and telegraph lines and properties,
2723 electric power lines, pipelines, and mains and facilities in the
2724 project area, or to require the anchoring or other protection of
2725 any of these, provided due compensation is first paid the owners
2726 thereof or agreement is had with the owners regarding the payment
2727 of the cost of relocation. Further, the district is hereby
2728 authorized to acquire easements or rights-of-way in or outside of
2729 the project area for the relocation of roads, highways, railroad,
2730 telephone and telegraph lines and properties, electric power
2731 lines, pipelines, and mains and facilities, and to convey them to
2732 the owners thereof in connection with the relocation as a part of
2733 the construction of the project. However, the directors of the
2734 district shall not close any public access road to the project
2735 existing prior to the construction of the reservoir unless the
2736 board of supervisors of the county in which the road is located
2737 agrees.

2738 (g) To overflow and inundate any public lands and
2739 public property, including sixteenth section lands and in lieu
2740 lands, within the project area.

2741 (h) Consistent with Section 29-5-2.2, to construct,
2742 extend, improve, maintain and reconstruct, to cause to be



2743 constructed, extended, improved, maintained and reconstructed, and
2744 to use and operate all facilities of any kind within the project
2745 area necessary or convenient to the project and to the exercise of
2746 powers, rights, privileges and functions.

2747 (i) To sue and be sued in its corporate name.

2748 (j) To adopt, use and alter a corporate seal.

2749 (k) To make bylaws for the management and regulation of
2750 its affairs.

2751 (l) To employ engineers, attorneys, who may or may not
2752 be a director, and all necessary agents and employees to properly
2753 finance, construct, operate and maintain the projects and the
2754 plants, and to pay reasonable compensation for these services; for
2755 all services in connection with the issuance of bonds as provided
2756 in this article, the attorney's fee shall not exceed one percent
2757 (1%) of the principal amount of these bonds. For any other
2758 services, only reasonable compensation shall be paid for those
2759 services. The board shall have the right to employ a general
2760 manager or executive director, who shall, at the discretion of the
2761 board, have the power to employ and discharge employees. Without
2762 limiting the generality of the foregoing, it may employ fiscal
2763 agents or advisors in connection with its financing program and in
2764 connection with the issuance of its bonds.

2765 (m) To make contracts and to execute instruments
2766 necessary or convenient to the exercise of the powers, rights,
2767 privileges and functions conferred upon it by this article.



2768 (n) To make or cause to be made surveys and engineering
2769 investigations relating to the project, or related projects, for
2770 the information of the district to facilitate the accomplishment
2771 of the purposes for which it is created.

2772 (o) To apply for and accept grants from the United
2773 States of America or from any corporation or agency created or
2774 designated by the United States of America, and to ratify and
2775 accept applications heretofore or hereafter made by voluntary
2776 associations to these agencies for grants to construct, maintain
2777 or operate any project or projects which hereafter may be
2778 undertaken or contemplated by the district.

2779 (p) To do all other acts or things necessary,
2780 requisite, or convenient to the exercising of the powers, rights,
2781 privileges or functions conferred upon it by this article or any
2782 other law.

2783 (q) To make such contracts in the issuance of bonds
2784 that may be necessary to ensure the marketability thereof.

2785 (r) Consistent with Section 29-5-2.2, to enter into
2786 contracts with municipalities, corporations, districts, public
2787 agencies, political subdivisions of any kind, and others for any
2788 services, facilities or commodities that the project may provide.
2789 The district is also authorized to contract with any municipality,
2790 corporation or public agency for the rental, leasing, purchase or
2791 operation of the water production, water filtration or
2792 purification, water supply and distributing facilities of the



2793 municipality, corporation or public agency upon consideration as
2794 the district and entity may agree. Any contract may be upon any
2795 terms and for any time as the parties may agree, and it may
2796 provide that it shall continue in effect until bonds specified
2797 therein and refunding bonds issued in lieu of these bonds and all
2798 obligations are paid. Any contract with any political subdivision
2799 shall be binding upon the political subdivisions according to its
2800 terms, and the municipalities or other political subdivisions
2801 shall have the power to enter into these contracts as in the
2802 discretion of the governing authorities thereof would be to the
2803 best interest of the people of the municipality or other political
2804 subdivisions. These contracts may include within the discretion of
2805 the governing authorities a pledge of the full faith and credit of
2806 the political subdivisions for the performance thereof.

2807 (s) To fix and collect charges and rates for any
2808 services, facilities or commodities furnished by it in connection
2809 with the project, and to impose penalties for failure to pay these
2810 charges and rates when due.

2811 (t) To operate and maintain within the project area,
2812 with the consent of the governing body of any city or town located
2813 within the district, any works, plants or facilities of any city
2814 deemed necessary or convenient to the accomplishment of the
2815 purposes for which the district is created.

2816 (u) Subject to the provisions of this article and
2817 Section 29-5-2.2, from time to time to lease, sell or otherwise



2818 lawfully dispose of property of any kind, real, personal or mixed,
2819 or any interest therein within the project area or acquired
2820 outside the project area as authorized in this article, for the
2821 purpose of furthering the business of the district.

2822 (v) When, in the opinion of the board of directors as
2823 shown by resolution duly passed, it shall not be necessary to the
2824 carrying on of the business of the district that the district own
2825 any lands acquired, the board shall advertise the lands for sale
2826 to the highest and best bidder for cash, and shall receive and
2827 publicly open the bids thereon. The board shall, by resolution,
2828 determine the highest and best bid submitted for the land and
2829 shall thereupon notify the former owner, his/her heirs or
2830 devisees, by registered mail of the land to be sold and the
2831 highest and best bid received therefor, and the former owner, or
2832 his/her heirs or devisees, shall have the exclusive right at
2833 his/her or their option for a period of thirty (30) days in which
2834 to meet such highest and best bid and to purchase such property.

2835 (w) To prevent or aid in the prevention of damage to
2836 person or property from the waters of the Pascagoula River or any
2837 of its tributaries.

2838 (x) Consistent with Section 29-5-2.2, to acquire by
2839 purchase, lease, gift or in any other manner (otherwise than by
2840 condemnation) and to maintain, use and operate all property of any
2841 kind, real, personal or mixed, or any interest therein within the
2842 project area, within or without the boundaries of the district,



2843 necessary for the project and convenient to the exercise of the
2844 powers, rights, privileges and functions conferred upon the
2845 district by this article.

2846 (y) In the purchase of or in the entering into of all
2847 lease purchase agreements for supplies, equipment, heavy equipment
2848 and the like, the directors shall in all instances comply with the
2849 provisions of law pertaining to public purchases by public bids on
2850 these supplies and equipment.

2851 (z) To designate employees as peace officers with the
2852 power to make arrests for violations of regulations of the
2853 district. The officers are authorized to carry weapons and to
2854 enforce the laws of the state within the confines of district
2855 parks and property. Any employee so designated is required to
2856 obtain and maintain certification pursuant to Section 45-6-1 et
2857 seq.

2858 (aa) To contract with persons, who are certified
2859 according to the minimum standards established by the Board on Law
2860 Enforcement Officer Standards and Training under Section 45-6-1 et
2861 seq., to serve as peace officers with the power to make arrests
2862 for violations of regulations of the district. Such officers are
2863 authorized to carry weapons and to enforce the laws of the state
2864 within the confines of district parks and property. All persons
2865 with which the district has contracted under this paragraph (aa)
2866 shall be independent contractors and shall not be considered as



2867 employees under Chapter 46 * * *, Title 11, Mississippi Code of
2868 1972.

2869 (bb) To: (* * *i) receive and expend funds that are
2870 made available to it under the provisions of the federal American
2871 Recovery and Reinvestment Act of 2009 (ARRA), and/or from any
2872 other source, to construct a lake and related structures and
2873 facilities in George County, Mississippi, if the funds received by
2874 the district may be used for that purpose; (* * *ii) obtain any
2875 information and research regarding construction of the lake and
2876 related structures and facilities from the Department of Wildlife,
2877 Fisheries and Parks; and (* * *iii) to receive and expend any
2878 funds made available to the district from the Department of
2879 Wildlife, Fisheries and Parks for the construction of the lake and
2880 related structures and facilities.

2881 (2) The board of directors shall annually prepare a
2882 five-year plan containing a prioritized list detailing the
2883 purposes, goals and projected costs of projects which it intends
2884 to implement or is in the process of implementing and shall file
2885 such plans with the clerk of the board of supervisors of each
2886 member county on or before July 15 of each year.

2887 (3) The board of directors shall, after completion of the
2888 annual audit of the district and upon receipt of the written
2889 report thereon, file a copy of such audit with the clerk of the
2890 board of supervisors of each member county.



2891 **SECTION 18.** Section 55-24-9, Mississippi Code of 1972, is
2892 amended as follows:

2893 55-24-9. Consistent with Section 29-5-2.2, the Mississippi
2894 Coast Coliseum Commission, a political subdivision of the State of
2895 Mississippi, shall have jurisdiction and authority over all
2896 matters relating to establishing, promoting, developing, locating,
2897 constructing, maintaining and operating a multipurpose coliseum
2898 and related facilities within Harrison County, Mississippi.
2899 Multipurpose coliseum and related facilities shall include a
2900 multipurpose coliseum or arena facility, a convention center
2901 and/or a fine arts center. Such commission is authorized to
2902 acquire lands by purchase, gift or the exercise of eminent domain
2903 as provided by Section 11-27-1 et seq., above or below mean
2904 high-water mark. The acquisition of lands below mean high-water
2905 mark by the commission for the purposes authorized herein are
2906 declared to be in all respects for the benefit of the people of
2907 the State of Mississippi, a public purpose, and an essential
2908 governmental function in the exercise of the powers conferred upon
2909 them by said act.

2910 Consistent with Section 29-5-2.2, said commission, acting on
2911 behalf of the State of Mississippi, shall have the right to
2912 reclaim submerged lands for the purpose of constructing a coliseum
2913 and related facilities thereon, and to acquire in its name on
2914 behalf of the state any estate or property right therein or in
2915 other land necessary to the purpose of this chapter by purchase,



2916 gift, deed or other transfer. Title to all oil, gas and other
2917 minerals in, on or under any lands, title to which is held by the
2918 State of Mississippi on August 8, 1968, shall be reserved unto the
2919 State of Mississippi, and all income derived from the sale or
2920 lease of such minerals shall inure to the benefit of the State of
2921 Mississippi for such purposes as the Legislature may direct.
2922 Provided, that prior to utilization of lands in which title vests
2923 in the State of Mississippi, a description of such land shall be
2924 submitted to the Department of Finance and Administration and said
2925 utilization shall not be commenced until or unless approval of
2926 such utilization is given by the Department of Finance and
2927 Administration.

2928 The commission is authorized to own, furnish, equip and
2929 operate said coliseum and all facilities and equipment necessary
2930 or useful in the operation of said coliseum, to receive and
2931 expend, subject to the provisions of this chapter, revenues from
2932 any source, including the operation of the said coliseum and
2933 related facilities, and to do all other things necessary to carry
2934 out the purposes of this chapter. It is the intent of the
2935 Legislature that no General Fund appropriations shall ever be made
2936 for the operation and maintenance of such facilities operated
2937 under the provisions of this chapter or for the cost of
2938 administration.

2939 The commission is authorized and directed to adopt uniform
2940 rules and regulations regarding the granting of franchises,



2941 licenses or leases, or the use, operation and maintenance of the
2942 premises, and to publish the same for three (3) consecutive weeks
2943 in a newspaper having a general circulation in the county and
2944 fixing a time and place not more than ten (10) days after the last
2945 publication to receive and hear objections to such rules and
2946 regulations. In addition, a copy of such rules and regulations or
2947 any revisions or amendments thereto shall be filed with the Clerk
2948 of the Harrison County Board of Supervisors and with the Director
2949 of the Department of Finance and Administration of the State of
2950 Mississippi. The commission may revise or amend such rules and
2951 regulations but such revisions shall be uniform and shall not be
2952 adopted unless the commission shall publish the proposed change
2953 three (3) consecutive weeks in a paper having a general
2954 circulation in the county, and fixing a time and place not more
2955 than ten (10) days after the last publication to receive and hear
2956 objections to such changes.

2957 Before granting any franchise, license or lease, the
2958 commission shall first publish its intent to grant such franchise,
2959 license or lease and the conditions upon which same shall be
2960 granted. Such publication shall be made for three (3) consecutive
2961 weeks in a newspaper having a general circulation in Harrison
2962 County. All bids received shall be sealed, and shall be opened at
2963 a date, time and place set forth in the publications, which date
2964 shall not be less than five (5) days nor more than ten (10) days
2965 after the last publication.



2966 Unless the commission shall find that the successful bidder
2967 cannot demonstrate financial responsibility to comply with the
2968 terms and conditions of the franchise, license or lease, or cannot
2969 perform the services required thereunder, it shall, subject to the
2970 limitations set forth under this chapter, grant said franchise,
2971 license or lease to the bidder whose proposal shall be in the best
2972 financial interest of the commission. Provided, however, should
2973 the apparent successful bid be rejected for the reasons
2974 hereinabove set out, such rejection shall not be effective unless
2975 such decision is concurred in by the Department of Finance and
2976 Administration.

2977 No such franchise, license or lease shall exceed a term of
2978 five (5) years but may, at the option of the commission, be
2979 extended under previously agreed and bid terms and conditions for
2980 a period not to exceed five (5) additional years.

2981 Any person aggrieved by any action of the commission may
2982 appeal to the Circuit Court of Harrison County in the manner
2983 provided for appeals from orders of the board of supervisors.

2984 The commission is granted the power to sue and be sued in its
2985 own name, and the commission is hereby authorized to take
2986 liability insurance on the operation of said facilities in an
2987 amount equal to the extent of its liability for claims or causes
2988 of action arising from acts or omissions as provided in Section
2989 11-46-15, Mississippi Code of 1972; provided, however, that
2990 immunity from suit is only waived to the extent of such liability



2991 insurance carried, and a judgment creditor shall have recourse
2992 only to the proceeds or right to proceeds of such liability
2993 insurance. No attempt shall be made in the trial of any case to
2994 suggest the existence of any insurance which covers in whole or in
2995 part any judgment or award rendered in favor of a claimant, but if
2996 the verdict rendered by the jury exceeds the limit of applicable
2997 insurance, the court on motion shall reduce the amount of said
2998 judgment to a sum equal to the applicable limit stated in the
2999 insurance policy.

3000 The commission is granted the power to invest funds credited
3001 to the Mississippi Coast Coliseum Commission Operating Fund. The
3002 commission is vested with authority to designate depositories of
3003 its funds, and to deposit said funds in interest-bearing accounts.
3004 Provided, however, all funds in excess of ninety (90) days'
3005 operating expenses, to the extent practicable, shall be invested
3006 in Treasury bills or in interest-bearing accounts or approved
3007 securities to include, but not limited to, U.S. Treasury bills and
3008 U.S. Treasury notes and bonds, federal agency securities or
3009 mortgage-backed securities guaranteed as to repayment of principal
3010 by said government or an agency of said government, certificates
3011 of deposit fully covered by insurance administered by the Federal
3012 Deposit Insurance Corporation or covered by pledged securities,
3013 repurchase agreements and short-term money market funds invested
3014 in United States Government and United States Government agencies.



3015 The commission is authorized to contract with any agency of
3016 the United States or the State of Mississippi for a loan or grant,
3017 and to give such agency any assurances of compliance with federal
3018 or state laws which are not in conflict with the laws of the State
3019 of Mississippi. It is the intent and purpose of this chapter that
3020 the Coliseum Commission cooperate with agencies administering the
3021 National Seashore Act of 1970.

3022 Whenever any real or personal property belonging to the
3023 commission shall cease to be used or needed for the commission's
3024 purposes, the commission may sell, exchange or lease the property
3025 on such terms as the commission may elect. No lease of surplus
3026 real property may exceed a term of ninety-nine (99) years. The
3027 deed of conveyance in such transactions shall be executed in the
3028 name of the commission by its commissioners pursuant to their
3029 order issued on the minutes of their meetings. In any sale,
3030 exchange or lease of real property, the commission shall retain
3031 all mineral rights that it owns, together with the right of
3032 ingress and egress to remove same. Before any sale, exchange or
3033 lease is made, the commissioners shall publish at least once each
3034 week for three (3) consecutive weeks, in a public newspaper of
3035 Harrison County, Mississippi, the intention to sell, exchange or
3036 lease, as the case may be, the real or personal property and to
3037 accept sealed competitive bids for the sale, exchange or lease.
3038 The commissioners shall thereafter accept bids for the sale,
3039 exchange or lease and shall sell, exchange or lease the property



3040 to the highest bidder in the manner provided by law. However,
3041 whenever the commissioners shall find and determine, by resolution
3042 duly and lawfully adopted and spread upon its minutes: (a) that
3043 any commission-owned real property is no longer needed for
3044 commission purposes and is not to be used in the operation of a
3045 multipurpose coliseum and related facilities, (b) that the sale,
3046 exchange or lease of such property in the manner otherwise
3047 provided for herein is not necessary or desirable for the
3048 financial welfare of a multipurpose coliseum and related
3049 facilities, and (c) that the use of such property for the purpose
3050 for which it is to be sold, exchanged or leased will promote and
3051 foster the development and improvement of the coliseum and its
3052 related facilities, the commissioners shall be authorized and
3053 empowered in their discretion to sell, exchange or lease the
3054 property without having to advertise for and accept competitive
3055 bids. In any case in which the commission proposes to sell or
3056 exchange real property under the provisions of this section
3057 without advertising for and accepting competitive bids,
3058 consideration for the sale or exchange of the real property shall
3059 be not less than the average of the fair market price for the
3060 property as determined by three (3) professional property
3061 appraisers selected by the commission and approved by the
3062 purchaser or devisee. Appraisal fees shall be shared equally by
3063 the commission and the purchaser or devisee.



3064 The enumeration of any specific rights and powers contained
3065 herein or elsewhere in this chapter where followed by general
3066 powers shall not be construed in the restrictive sense but rather
3067 in as broad and comprehensive sense as possible to effectuate the
3068 purposes and intent of this chapter.

3069 **SECTION 19.** Section 57-1-23, Mississippi Code of 1972, is
3070 amended as follows:

3071 57-1-23. (1) The several municipalities of this state,
3072 including counties, judicial districts of counties having two
3073 judicial districts, supervisors districts, cities, towns or
3074 villages, whether existing under special charters or otherwise,
3075 hereinabove called "municipalities," are hereby authorized and
3076 empowered to make effective the provisions herein contained, for
3077 the general welfare of the state and of the several municipalities
3078 thereof. When and after such municipality shall have obtained
3079 therefor a certificate of public convenience and necessity, under
3080 the provisions of Sections 57-1-19 and 57-1-21, and complied with
3081 the provisions of Section 29-5-2.2, then it may acquire land by
3082 purchase, gift, eminent domain or otherwise for any such
3083 enterprise so thus approved, and may directly or by contract, such
3084 contract to be entered into and governed as now provided by law
3085 for other public contracts entered into by boards of supervisors,
3086 erect such buildings and structures as may be essential for such
3087 enterprise, may obtain for such enterprise the requisite
3088 appliances and equipment, and may operate such enterprise. The



3089 power thus to do is hereby generally conferred upon all such
3090 municipalities, and shall be in addition to all other powers now
3091 possessed without in anywise limiting or circumscribing them.

3092 (2) Consistent with Section 29-5-2.2, any city or town in
3093 this state situated in a county bordering on the Mississippi River
3094 and situated not more than five miles from the proposed industrial
3095 site or location of any industrial plant or proposed site of such
3096 plant, authorized to be established, built and erected under the
3097 terms of Sections 57-1-1 through 57-1-51, such distance to be
3098 measured between the corporate line of any such city or town
3099 nearest such proposed site and the boundary of such proposed site
3100 nearest such corporate line, is hereby authorized and empowered to
3101 join with another municipality and subdivisions of government, as
3102 defined hereinabove, in the creation, establishment, acquisition,
3103 ownership, control, sale, lease, disposition and disposal of any
3104 such plant, plant site and/or other property, real and personal,
3105 acquired, owned, or otherwise possessed and controlled under
3106 authority of Sections 57-1-1 through 57-1-51, notwithstanding the
3107 fact that the said, or proposed, plant, plant site, and/or other
3108 property, real or personal, is situated in another supervisors
3109 district other than the supervisors district in which such city or
3110 town is situated. In all cases provided for in this subsection,
3111 all authority, powers, privileges and rights provided for in
3112 Sections 57-1-1 through 57-1-51, shall be and are hereby conferred



3113 upon and vested in such city or town and such other municipality
3114 as may join therewith, as herein authorized.

3115 **SECTION 20.** Section 59-5-35, Mississippi Code of 1972, is
3116 amended as follows:

3117 59-5-35. Consistent with Section 29-5-2.2, the board, acting
3118 jointly with the state port authority, is authorized to set aside,
3119 or lease all or portions of any lands, roads, docks, sheds,
3120 warehouses, elevators, compresses, floating dry docks, graving
3121 docks, marine railways, tugboats, or any other necessary or useful
3122 improvements constructed or acquired by it to individuals, firms,
3123 or corporations, public or private, for port, harbor, commercial
3124 or industrial purposes for a period not to exceed ninety-nine
3125 years, or to execute a conveyance of sale, except as otherwise
3126 limited by law, on such terms and conditions and with such
3127 safeguards as would best promote and protect the public interest.
3128 Any industrial lease of lands may be executed upon such terms and
3129 conditions and for such monetary rental or other consideration as
3130 may be found adequate and approved by the board in orders or
3131 resolutions authorizing the same. Any covenants and agreements of
3132 the lessee to make expenditures in determined amounts, and within
3133 such time or times, for improvements to be erected upon the land,
3134 by such lessee and to conduct thereon industrial and/or other
3135 operations in such aggregate payroll amounts and for such period
3136 of time as may be determined and defined in such lease, and to
3137 give preference in employment where practical to residents of the



3138 State of Mississippi, and to qualified residents of the city and
3139 of the county in which such port or harbor is located, shall if
3140 included in such lease constitute and be deemed sufficient
3141 consideration for the execution of any such lease in the absence
3142 of monetary rental or other considerations; and such instrument
3143 may contain reasonable provisions giving the lessee the right to
3144 remove its or his improvements upon the termination of the lease.
3145 All leases theretofore made by any port commission, port
3146 authority, or other public agency authorized by law to execute
3147 leases for port, harbor, commercial or industrial improvements,
3148 which leases are now in effect or which may be hereafter executed
3149 by any such public agency or by the board, and all structures and
3150 all improvements and other permanent facilities erected, installed
3151 or located by such lessees or their successors or assignees within
3152 the limits of any port, harbor or part thereof, may be free and
3153 exempt from all state, county, and municipal ad valorem taxes if
3154 so stipulated in such lease, and for such period as may be fixed
3155 in such lease.

3156 **SECTION 21.** Section 59-5-39, Mississippi Code of 1972, is
3157 amended as follows:

3158 59-5-39. For the acquiring of rights-of-way, land and
3159 property including existing easements, restrictive covenants and
3160 reversionary estates necessary for the purposes herein authorized,
3161 the board shall have the right and power to acquire the same by
3162 purchase, negotiation or condemnation, consistent with Section



3163 29-5-2.2. * * * Should it elect to exercise the right of eminent
3164 domain, it may proceed in the manner provided by the general laws
3165 of the State of Mississippi for procedure by any county,
3166 municipality or corporation organized under the laws of this
3167 state, or in any other manner provided by law. The power of
3168 eminent domain shall apply not only as to all property of private
3169 persons or corporations, but also as to property already devoted
3170 to public use including leaseholds, excepting interests in
3171 property owned by levee boards, drainage districts or other flood
3172 control agencies. However, the board shall have no authority to
3173 acquire without the consent of the owner thereof any property
3174 operated and used for port, harbor or industrial purposes or such
3175 purposes as the board is authorized to acquire and use property
3176 for, unless an actual necessity therefor be alleged and proven.
3177 The board is authorized to accept donations of lands, rights
3178 therein, monies and materials required for the maintenance or
3179 development of any port or harbor. The board may exchange any
3180 property or properties acquired under the authority of this
3181 chapter for other property or properties usable in carrying out
3182 the powers hereby conferred, and also remove from lands needed for
3183 its purposes and reconstruct on other locations, buildings,
3184 utilities, terminals, railroads or other structures upon the
3185 payment of just compensation, if it is necessary so to do in order
3186 to carry out any of its plans for port development. The title to
3187 all land or property acquired under the authority of this chapter



3188 shall vest in the State of Mississippi. Nothing contained in this
3189 section shall be construed to authorize the taking by eminent
3190 domain of any private property except for necessary public use.

3191 **SECTION 22.** Section 59-7-211, Mississippi Code of 1972, is
3192 amended as follows:

3193 59-7-211. In all such counties * * * described in Section
3194 59-7-201, upon and with the approval of the board of supervisors
3195 and consistent with Section 29-5-2.2, the port commission shall
3196 have the power and authority to sell or lease any lands or
3197 easements acquired by any such county in conjunction with the
3198 establishment and construction of any port or harbor under the
3199 jurisdiction of said commission for the purposes of industrial
3200 development, but the terms and provisions of any such sales or
3201 lease shall include limitations as to the use of such lands and
3202 easements for industrial activities integrated to water
3203 transportation in accordance with the terms and provisions of such
3204 assurances of local cooperation as may have been given by virtue
3205 of Section 51-35-15 or Section 51-35-17, Mississippi Code of 1972,
3206 and the provisions of this article. Furthermore, said port
3207 commission, upon and with the approval of the board of
3208 supervisors, shall have the power and is hereby authorized, in its
3209 discretion, to sell and convey to the United States of America,
3210 without any limitations whatsoever, by general or special warranty
3211 deed or other acceptable form or conveyance, the full title to any
3212 lands acquired or held by any such county in connection with the



3213 establishment and development of any harbor or port project under
3214 the jurisdiction of said commission in exchange for the title to
3215 lands of the United States of America deemed useful for or needed
3216 by any county in connection with the establishment, enlargement,
3217 development, construction or maintenance of any port or harbor
3218 project under the jurisdiction of said commission, or for such
3219 other consideration as said commission and said board find to be
3220 adequate and sufficient. Said port commission, upon and with the
3221 approval of the board of supervisors of the county, is further
3222 hereby authorized to donate and/or sell and convey, without any
3223 limitations, upon such terms and conditions as may be deemed
3224 proper by the said commission and said board of supervisors, to
3225 the United States of America any of the lands needed by the United
3226 States of America for navigation and/or flood control purposes, or
3227 in fulfillment of any authorized assurances which have been given
3228 or which may be given by said county to the United States of
3229 America, or for the purpose of the display of the Gunboat Cairo.

3230 **SECTION 23.** Section 59-17-13, Mississippi Code of 1972, is
3231 amended as follows:

3232 59-17-13. (1) The board shall have power to acquire,
3233 purchase, install, lease, construct, own, hold, maintain, equip,
3234 use, control, and operate ports, harbors, waterways, channels,
3235 wharves, piers, docks, quays, elevators, tipples, compresses, bulk
3236 loading and unloading facilities, warehouses, floating dry docks,
3237 graving docks, marine railways, tugboats, and water, air and rail



3238 terminals, and roadways and approaches thereto, and other
3239 structures and facilities needful for the convenient use of the
3240 same in the aid of commerce, including the dredging, deepening,
3241 extending, widening, or enlarging of any ports, harbors, rivers,
3242 channels, and waterways, the damming of inland waterways, the
3243 establishment of water basins, the acquisition and development of
3244 industrial sites and the reclaiming of submerged lands.

3245 (2) The board shall exercise the powers conferred by the
3246 State Inland Ports Law consistent with Section 29-5-2.2.

3247 **SECTION 24.** Section 65-1-8, Mississippi Code of 1972, is
3248 amended as follows:

3249 65-1-8. (1) The Mississippi Transportation Commission shall
3250 have the following general powers, duties and responsibilities:

3251 (a) To coordinate and develop a comprehensive, balanced
3252 transportation policy for the State of Mississippi;

3253 (b) To promote the coordinated and efficient use of all
3254 available and future modes of transportation;

3255 (c) To make recommendations to the Legislature
3256 regarding alterations or modifications in any existing
3257 transportation policies;

3258 (d) To study means of encouraging travel and
3259 transportation of goods by the combination of motor vehicle and
3260 other modes of transportation;



3261 (e) To take such actions as are necessary and proper to
3262 discharge its duties pursuant to the provisions of Chapter 496,
3263 Laws of 1992, and any other provision of law;

3264 (f) To receive and provide for the expenditure of any
3265 funds made available to it by the Legislature, the federal
3266 government or any other source.

3267 (2) In addition to the general powers, duties and
3268 responsibilities listed in subsection (1) of this section, the
3269 Mississippi Transportation Commission shall have the following
3270 specific powers:

3271 (a) To make rules and regulations whereby the
3272 Transportation Department shall change or relocate any and all
3273 highways herein or hereafter fixed as constituting a part of the
3274 state highway system, as may be deemed necessary or economical in
3275 the construction or maintenance thereof; to acquire by gift,
3276 purchase, condemnation or otherwise, land or other property
3277 whatsoever that may be necessary for a state highway system as
3278 herein provided, with full consideration to be given to the
3279 stimulation of local public and private investment when acquiring
3280 such property in the vicinity of Mississippi towns, cities and
3281 population centers;

3282 (b) To enforce by mandamus, or other proper legal
3283 remedies, all legal rights or rights of action of the Mississippi
3284 Transportation Commission with other public bodies, corporations
3285 or persons;



3286 (c) To make and publish rules, regulations and
3287 ordinances for the control of and the policing of the traffic on
3288 the state highways, and to prevent their abuse by any or all
3289 persons, natural or artificial, by trucks, tractors, trailers or
3290 any other heavy or destructive vehicles or machines, or by any
3291 other means whatsoever, by establishing weights of loads or of
3292 vehicles, types of tires, width of tire surfaces, length and width
3293 of vehicles, with reasonable variations to meet approximate
3294 weather conditions, and all other proper police and protective
3295 regulations, and to provide ample means for the enforcement of
3296 same. The violation of any of the rules, regulations or
3297 ordinances so prescribed by the commission shall constitute a
3298 misdemeanor. No rule, regulation or ordinance shall be made that
3299 conflicts with any statute now in force or which may hereafter be
3300 enacted, or with any ordinance of municipalities. A monthly
3301 publication giving general information to the boards of
3302 supervisors, employees and the public may be issued under such
3303 rules and regulations as the commission may determine;

3304 (d) To give suitable numbers to highways and to change
3305 the number of any highway that shall become a part of the state
3306 highway system. However, nothing herein shall authorize the
3307 number of any highway to be changed so as to conflict with any
3308 designation thereof as a U.S. numbered highway. Where, by a
3309 specific act of the Legislature, the commission has been directed



3310 to give a certain number to a highway, the commission shall not
3311 have the authority to change such number;

3312 (e) (i) To make proper and reasonable rules,
3313 regulations, and ordinances for the placing, erection, removal or
3314 relocation of telephone, telegraph or other poles, signboards,
3315 fences, gas, water, sewerage, oil or other pipelines, and other
3316 obstructions that may, in the opinion of the commission,
3317 contribute to the hazards upon any of the state highways, or in
3318 any way interfere with the ordinary travel upon such highways, or
3319 the construction, reconstruction or maintenance thereof, and to
3320 make reasonable rules and regulations for the proper control
3321 thereof. Any violation of such rules or regulations or
3322 noncompliance with such ordinances shall constitute a misdemeanor;

3323 (ii) Except as otherwise provided for in this
3324 paragraph, whenever the order of the commission shall require the
3325 removal of, or other changes in the location of telephone,
3326 telegraph or other poles, signboards, gas, water, sewerage, oil or
3327 other pipelines; or other similar obstructions on the right-of-way
3328 or such other places where removal is required by law, the owners
3329 thereof shall at their own expense move or change the same to
3330 conform to the order of the commission. Any violation of such
3331 rules or regulations or noncompliance with such orders shall
3332 constitute a misdemeanor;

3333 (iii) Rural water districts, rural water systems,
3334 nonprofit water associations and municipal public water systems in



3335 municipalities with a population of ten thousand (10,000) or less,
3336 according to the latest federal decennial census, shall not be
3337 required to bear the cost and expense of removal and relocation of
3338 water and sewer lines and facilities constructed or in place in
3339 the rights-of-way of state highways. The cost and expense of such
3340 removal and relocation, including any unpaid prior to July 1,
3341 2002, shall be paid by the Department of Transportation;

3342 (iv) Municipal public sewer systems and municipal
3343 gas systems owned by municipalities with a population of ten
3344 thousand (10,000) or less, according to the latest federal
3345 decennial census, shall not be required to bear the cost and
3346 expense of removal and relocation of lines and facilities
3347 constructed or in place in the rights-of-way of state highways.
3348 The cost and expense of such removal and relocation, including any
3349 unpaid prior to July 1, 2003, shall be paid by the Department of
3350 Transportation;

3351 (f) To regulate and abandon grade crossings on any road
3352 fixed as a part of the state highway system, and whenever the
3353 commission, in order to avoid a grade crossing with the railroad,
3354 locates or constructs said road on one side of the railroad, the
3355 commission shall have the power to abandon and close such grade
3356 crossing, and whenever an underpass or overhead bridge is
3357 substituted for a grade crossing, the commission shall have power
3358 to abandon such grade crossing and any other crossing adjacent
3359 thereto. Included in the powers herein granted shall be the power



3360 to require the railroad at grade crossings, where any road of the
3361 state highway system crosses the same, to place signal posts with
3362 lights or other warning devices at such crossings at the expense
3363 of the railroad, and to regulate and abandon underpass or overhead
3364 bridges and, where abandoned because of the construction of a new
3365 underpass or overhead bridge, to close such old underpass or
3366 overhead bridge, or, in its discretion, to return the same to the
3367 jurisdiction of the county board of supervisors;

3368 (g) To make proper and reasonable rules and regulations
3369 to control the cutting or opening of the road surfaces for
3370 subsurface installations;

3371 (h) To make proper and reasonable rules and regulations
3372 for the removal from the public rights-of-way of any form of
3373 obstruction, to cooperate in improving their appearance, and to
3374 prescribe minimum clearance heights for seed conveyors, pipes,
3375 passageways or other structure of private or other ownership above
3376 the highways;

3377 (i) To establish, and have the Transportation
3378 Department maintain and operate, and to cooperate with the state
3379 educational institutions in establishing, enlarging, maintaining
3380 and operating a laboratory or laboratories for testing materials
3381 and for other proper highway purposes;

3382 (j) To provide, under the direction and with the
3383 approval of the Department of Finance and Administration, suitable
3384 offices, shops and barns in the City of Jackson;



3385 (k) To establish and have enforced set-back
3386 regulations;
3387 (l) To cooperate with proper state authorities in
3388 producing limerock for highway purposes and to purchase same at
3389 cost;
3390 (m) To provide for the purchase of necessary equipment
3391 and vehicles and to provide for the repair and housing of
3392 same * * *;
3393 (n) Consistent with Section 29-5-2.2, to acquire by
3394 gift, purchase, condemnation or otherwise, land or lands and
3395 buildings in fee simple, and to authorize the Transportation
3396 Department to construct, lease or otherwise provide necessary and
3397 proper permanent district offices for the construction and
3398 maintenance divisions of the department, and for the repair and
3399 housing of the equipment and vehicles of the department; however,
3400 in each Supreme Court district only two (2) permanent district
3401 offices shall be set up, but a permanent status shall not be given
3402 to any such offices until so provided by act of the Legislature
3403 and in the meantime, all shops of the department shall be retained
3404 at their present location. As many local or subdistrict offices,
3405 shops or barns may be provided as is essential and proper to
3406 economical maintenance of the state highway system;
3407 (* * *o) To cooperate with the Department of Archives
3408 and History in having placed and maintained suitable historical
3409 markers, including those which have been approved and purchased by



3410 the State Historical Commission, along state highways, and to have
3411 constructed and maintained roadside driveways for convenience and
3412 safety in viewing them when necessary;

3413 (* * *p) To cooperate, in its discretion, with the
3414 Mississippi Department of Wildlife, Fisheries and Parks in
3415 planning and constructing roadside parks upon the right-of-way of
3416 state highways, whether constructed, under construction, or
3417 planned; said parks to utilize where practical barrow pits used in
3418 construction of state highways for use as fishing ponds. Said
3419 parks shall be named for abundant flora and fauna existing in the
3420 area or for the first flora or fauna found on the site;

3421 (* * *q) Unless otherwise prohibited by law, to make
3422 such contracts and execute such instruments containing such
3423 reasonable and necessary appropriate terms, provisions and
3424 conditions as in its absolute discretion it may deem necessary,
3425 proper or advisable, for the purpose of obtaining or securing
3426 financial assistance, grants or loans from the United States of
3427 America or any department or agency thereof, including contracts
3428 with several counties of the state pertaining to the expenditure
3429 of such funds;

3430 (* * *r) To cooperate with the Federal Highway
3431 Administration in the matter of location, construction and
3432 maintenance of the Great River Road, to expend such funds paid to
3433 the commission by the Federal Highway Administration or other
3434 federal agency, and to authorize the Transportation Department to



3435 erect suitable signs marking this highway, the cost of such signs
3436 to be paid from state highway funds other than earmarked
3437 construction funds;

3438 (* * *s) To cooperate, in its discretion, with the
3439 Mississippi Forestry Commission and the School of Forestry,
3440 Mississippi State University, in a forestry management program,
3441 including planting, thinning, cutting and selling, upon the
3442 right-of-way of any highway, constructed, acquired or maintained
3443 by the Transportation Department, and to sell and dispose of any
3444 and all growing timber standing, lying or being on any
3445 right-of-way acquired by the commission for highway purposes in
3446 the future; such sale or sales to be made in accordance with the
3447 sale of personal property which has become unnecessary for public
3448 use as provided for in Section 65-1-123, Mississippi Code of 1972;

3449 (* * *t) To expend funds in cooperation with the
3450 Division of Plant Industry, Mississippi Department of Agriculture
3451 and Commerce, the United States government or any department or
3452 agency thereof, or with any department or agency of this state, to
3453 control, suppress or eradicate serious insect pests, rodents,
3454 plant parasites and plant diseases on the state highway
3455 rights-of-way;

3456 (* * *u) To provide for the placement, erection and
3457 maintenance of motorist services business signs and supports
3458 within state highway rights-of-way in accordance with current
3459 state and federal laws and regulations governing the placement of



3460 traffic control devices on state highways, and to establish and
3461 collect reasonable fees from the businesses having information on
3462 such signs;

3463 (* * *v) To request and to accept the use of persons
3464 convicted of an offense, whether a felony or a misdemeanor, for
3465 work on any road construction, repair or other project of the
3466 Transportation Department. The commission is also authorized to
3467 request and to accept the use of persons who have not been
3468 convicted of an offense but who are required to fulfill certain
3469 court-imposed conditions pursuant to Section 41-29-150(d)(1) or
3470 99-15-26, Mississippi Code of 1972, or the Pretrial Intervention
3471 Act, being Sections 99-15-101 through 99-15-127, Mississippi Code
3472 of 1972. The commission is authorized to enter into any
3473 agreements with the Department of Corrections, the State Parole
3474 Board, any criminal court of this state, and any other proper
3475 official regarding the working, guarding, safekeeping, clothing
3476 and subsistence of such persons performing work for the
3477 Transportation Department. Such persons shall not be deemed
3478 agents, employees or involuntary servants of the Transportation
3479 Department while performing such work or while going to and from
3480 work or other specified areas;

3481 (* * *w) To provide for the administration of the
3482 railroad revitalization program pursuant to Section 57-43-1 et
3483 seq.;



3484 (* * *x) The Mississippi Transportation Commission is
3485 further authorized, in its discretion, to expend funds for the
3486 purchase of service pins for employees of the Mississippi
3487 Transportation Department;

3488 (* * *y) To cooperate with the State Tax Commission by
3489 providing for weight enforcement field personnel to collect and
3490 assess taxes, fees and penalties and to perform all duties as
3491 required pursuant to Section 27-55-501 et seq., Sections 27-19-1
3492 et seq., 27-55-1 et seq., 27-59-1 et seq. and 27-61-1 et seq.,
3493 Mississippi Code of 1972, with regard to vehicles subject to the
3494 jurisdiction of the Office of Weight Enforcement. All collections
3495 and assessments shall be transferred daily to the State Tax
3496 Commission;

3497 (* * *z) The Mississippi Transportation Commission may
3498 delegate the authority to enter into a supplemental agreement to a
3499 contract previously approved by the commission if the supplemental
3500 agreement involves an additional expenditure not to exceed One
3501 Hundred Thousand Dollars (\$100,000.00);

3502 (* * *aa) (i) The Mississippi Transportation
3503 Commission, in its discretion, may enter into agreements with any
3504 county, municipality, county transportation commission, business,
3505 corporation, partnership, association, individual or other legal
3506 entity, for the purpose of accelerating the completion date of
3507 scheduled highway construction projects.



3508 (ii) Such an agreement may permit the cost of a
3509 highway construction project to be advanced to the commission by a
3510 county, municipality, county transportation commission, business,
3511 corporation, partnership, association, individual or other legal
3512 entity, and repaid to such entity by the commission when highway
3513 construction funds become available; provided, however, that
3514 repayment of funds advanced to the Mississippi Transportation
3515 Commission shall be made no sooner than the commission's
3516 identified projected revenue schedule for funding of that
3517 particular construction project, and no other scheduled highway
3518 construction project established by statute or by the commission
3519 may be delayed by an advanced funding project authorized under
3520 this paragraph (* * *aa). Repayments to a private entity that
3521 advances funds to the Mississippi Transportation Commission under
3522 this paragraph (* * *aa) may not include interest or other fees
3523 or charges, and the total amount repaid shall not exceed the total
3524 amount of funds advanced to the commission by the entity.

3525 (iii) In considering whether to enter into such an
3526 agreement, the commission shall consider the availability of
3527 financial resources, the effect of such agreement on other ongoing
3528 highway construction, the urgency of the public's need for swift
3529 completion of the project and any other relevant factors.

3530 (iv) Such an agreement shall be executed only upon
3531 a finding by the commission, spread upon its minutes, that the
3532 acceleration of the scheduled project is both feasible and



3533 beneficial. The commission shall also spread upon its minutes its
3534 findings with regard to the factors required to be considered
3535 pursuant to item (iii) of this paragraph (* * *aa);

3536 (* * *bb) The Mississippi Transportation Commission,
3537 in its discretion, may purchase employment practices liability
3538 insurance, and may purchase an excess policy to cover catastrophic
3539 losses incurred under the commission's self-insured workers'
3540 compensation program authorized under Section 71-3-5. Such
3541 policies shall be written by the agent or agents of a company or
3542 companies authorized to do business in the State of Mississippi.
3543 The deductibles shall be in an amount deemed reasonable and
3544 prudent by the commission, and the premiums thereon shall be paid
3545 from the State Highway Fund. Purchase of insurance under this
3546 paragraph shall not serve as an actual or implied waiver of
3547 sovereign immunity or of any protection afforded the commission
3548 under the Mississippi Tort Claims Act;

3549 (* * *cc) The Mississippi Transportation Commission is
3550 further authorized, in its discretion, to expend funds for the
3551 purchase of promotional materials for safety purposes, highway
3552 beautification purposes and recruitment purposes;

3553 (* * *dd) To lease antenna space on communication
3554 towers which it owns.

3555 **SECTION 25.** Section 65-1-17, Mississippi Code of 1972, is
3556 amended as follows:



3557 65-1-17. In the event the department needs additional office
3558 space which cannot be provided either in state office buildings,
3559 or other state-owned buildings, the commission is hereby
3560 authorized to rent, consistent with Section 29-5-2.2, on an annual
3561 or month-to-month basis on such terms as it may determine to be
3562 proper, such office space as may be necessary.

3563 **SECTION 26.** Section 69-7-109, Mississippi Code of 1972, is
3564 amended as follows:

3565 69-7-109. The board shall have the power to:

3566 (a) Fix salaries of any authorized employees of the
3567 market;

3568 (b) Fix rentals and charges for each type of facility
3569 constructed in the market, taking into consideration the cost of
3570 such facility, the interest and amortization period required, a
3571 proper relationship between types of operators in the market, cost
3572 of operation, and the need for reasonable reserves, expansion and
3573 the like;

3574 (c) Make investigations and hold hearings and
3575 conferences necessary to formulate and adopt a financial building
3576 and operating program for a market and make revisions from time to
3577 time;

3578 (d) Make rules and regulations which shall govern all
3579 such business and all persons and vehicles coming upon the market;



3580 (e) Provide and enforce penalties and liquidated
3581 damages relative to breaches of such rules and regulations and any
3582 contracts entered into;

3583 (f) Lease the buildings and facilities to farmers,
3584 wholesale dealers and other persons engaged in the wholesale
3585 marketing of perishable farm products;

3586 (g) Determine and set the hours when the market may
3587 open and close during any day or night throughout the year;

3588 (h) Consistent with Section 29-5-2.2, plan, build,
3589 construct or cause to be built or constructed, or lease any
3590 facilities, on the grounds under the control of the Mississippi
3591 Central Market Board, that are deemed necessary for the successful
3592 operation of a wholesale market for farm products;

3593 (i) Rent or lease any necessary property, real or
3594 personal, on the grounds under the control of the Mississippi
3595 Central Market Board, as may be deemed advisable by the board for
3596 the successful operation of the market. However, that before
3597 leasing or renting any property for use as a filling station or
3598 the sale of similar supplies and accessories, the board shall
3599 advertise and receive sealed bids therefor, and shall have the
3600 power to reject any and all of such bids, or to accept the highest
3601 and best bid made therefor, and the lessee shall erect such
3602 buildings and add such facilities as necessary to carry out the
3603 provisions of this article at the expense of the lessee in
3604 addition to any other monies paid as lease money to said board for



3605 the purpose of operating a service station. Such establishment
3606 shall not be tax exempt. No filling station shall be leased for a
3607 monthly rental less than One Cent (1¢) per gallon for each gallon
3608 of gasoline sold;

3609 (j) Employ an attorney as prescribed in Section
3610 69-1-14.

3611 The said board shall also have full power and authority to
3612 rent or lease real property, on the grounds under the control of
3613 the Mississippi Central Market Board, not otherwise used, for a
3614 period not to exceed twenty-five (25) years to private concerns
3615 for the purpose of processing agricultural products, and providing
3616 such facilities found necessary by the board to carry out the
3617 purposes of this article, and such facilities, structures,
3618 buildings, or other improvements erected or placed thereon by
3619 private concerns shall be subject to taxation the same as private
3620 property, provided, however, that improvements or facilities
3621 erected thereon for processing agricultural products shall not be
3622 assessed or taxed until five (5) years after completion of
3623 construction. The improvements and facilities erected on said
3624 leased property shall be liable for ad valorem taxes and shall be
3625 assessed and levied against said leasehold separately from the fee
3626 of said lands, and upon failure to pay taxes upon same when due,
3627 said facilities and improvements shall be sold by the tax
3628 collector as other property is sold for the nonpayment of taxes,
3629 but only such rights of the lessee under said lease contract shall



3630 be so sold. Upon the failure to pay taxes promptly when due on
3631 said lease, said board shall have the power to cancel and
3632 terminate said lease immediately and shall thereupon be authorized
3633 to lease or re-lease same to another private individual or concern
3634 as herein provided.

3635 The provisions hereof regarding taxation shall not apply to
3636 those buildings, structures and facilities erected on said
3637 property by the board.

3638 The Central Market Board shall maintain or operate local
3639 market, after the local board or members of any local market have
3640 voted to transfer its activity to the state market board. However,
3641 such local market shall be in the sale of produce or farm
3642 products, and the Central Market Board shall not be required to
3643 assume any outstanding indebtedness in connection with the
3644 acquisition of such local market facilities.

3645 **SECTION 27.** Section 69-27-35, Mississippi Code of 1972, is
3646 amended as follows:

3647 69-27-35. A soil and water conservation district organized
3648 under the provisions of this article shall constitute a
3649 governmental subdivision of this state, and a public body,
3650 corporate and politic, exercising public powers, and such district
3651 and the commissioners thereof shall have the following powers, in
3652 addition to others granted in other sections of this article:

3653 (a) To conduct surveys, investigations and research
3654 relating to the character of soil erosion and the preventive and



3655 control measures needed, to publish results of such surveys,
3656 investigations or research, and to disseminate information
3657 concerning such preventive and control measures. However, in
3658 order to avoid duplication of research activities, no district
3659 shall initiate any research program except in cooperation with the
3660 government of this state or any of its agencies, or with the
3661 United States or any of its agencies.

3662 (b) To conduct demonstration projects within the
3663 district on lands owned or controlled by this state or any of its
3664 agencies, with the cooperation of the agency administering and
3665 having jurisdiction thereof, and on any other lands within the
3666 district upon obtaining the consent of the owner of such lands or
3667 the necessary rights or interests in such lands, in order to
3668 demonstrate by example the means, methods, and measures by which
3669 water and soil resources may be conserved, and soil erosion in the
3670 form of soil washing may be prevented and controlled.

3671 (c) To carry out preventive and control measures within
3672 the district including, but not limited to, engineering
3673 operations, methods of cultivation, the growing of vegetation,
3674 changes in use of land, and the measures listed in subsection (c),
3675 Section 69-27-3, on lands owned or controlled by this state or any
3676 of its agencies, with the cooperation of the agency administering
3677 and having jurisdiction thereof, and on any other lands within the
3678 district upon obtaining the consent of the owner of such lands.



3679 (d) To cooperate, or enter into agreements with, and
3680 within the limits of appropriations duly made available to it by
3681 law, to furnish financial or other aid to any agency, governmental
3682 or otherwise, or any owner or operator of lands within the
3683 district, in the carrying on of erosion control and prevention
3684 operations within the district, subject to such conditions as the
3685 commissioners may deem necessary to advance the purposes of this
3686 article.

3687 (e) Consistent with Section 29-5-2.2, to obtain options
3688 upon and to acquire by purchase, exchange, lease, gift, grant,
3689 bequest, or devise, any property, real or personal, or rights or
3690 interests therein, and all such property shall be exempt from
3691 state, county, or municipal taxation; to maintain, administer, and
3692 improve any properties acquired, to receive income from such
3693 properties and to expend such income in carrying out the purposes
3694 and provisions of this article; and consistent with Section
3695 29-5-2.2, to sell, lease, or otherwise dispose of any of its
3696 property or interests therein in furtherance of the purposes and
3697 the provisions of this article. Notwithstanding any provisions of
3698 general law to the contrary, no land or interest therein described
3699 under this subsection shall be acquired for recreational purposes
3700 by eminent domain proceedings after the effective date of this
3701 article.

3702 (f) To make available, on such terms as it shall
3703 prescribe, to landowners and operators within the district,



3704 agricultural and engineering machinery and equipment, fertilizer,
3705 seeds, and seedlings, and such other material or equipment, as
3706 will assist such landowners and operators to carry on operations
3707 upon their lands for the conservation of soil and water resources
3708 and for the prevention and control of soil erosion, and to
3709 purchase comprehensive insurance on such agricultural and
3710 engineering equipment.

3711 (g) To construct, improve, and maintain such structures
3712 as may be necessary or convenient for the performance of any of
3713 the operations authorized in this article, with the consent of
3714 two-thirds (2/3) of the landowners owning sixty-six and two-thirds
3715 percent (66-2/3%) of all lands affected, whether the owners of
3716 such land live within such district or not.

3717 (h) To develop comprehensive plans for the conservation
3718 of soil and water resources and for the control and prevention of
3719 soil erosion within the district, and to bring such plans and
3720 information to the attention of owners and operators of lands
3721 within the district.

3722 (i) To acquire by purchase or lease, and to administer,
3723 any water and soil conservation, erosion-control or
3724 erosion-prevention project located within its boundaries
3725 undertaken by the United States or any of its agencies, or by this
3726 state or any of its agencies; to manage as agent of the United
3727 States or any of its agencies, or of this state or any of its
3728 agencies, any water and soil conservation, erosion-control or



3729 erosion-prevention project within its boundaries; to act as agent
3730 for the United States or any of its agencies, or for this state or
3731 any of its agencies, in connection with the acquisition,
3732 construction, operation, or administration of any soil and water
3733 conservation, erosion-control or erosion-prevention project within
3734 its boundaries; to accept donations, gifts and contributions in
3735 money, services, materials, or otherwise, from the United States
3736 or any of its agencies, or from this state or any of its agencies,
3737 or from private sources, and to use or expend such monies,
3738 services, materials, or other contributions in carrying on its
3739 operations.

3740 (j) To assist individual landowners or operators and
3741 organized groups, associations, or other agencies or units of
3742 government to plan and establish recreational facilities for
3743 family use, income-producing purposes, or for community access.

3744 (k) To enter into contracts with the approval of the
3745 Governor with any agency of the federal or state government or its
3746 political subdivisions to accomplish the objectives of this
3747 article.

3748 (l) To collect cost-sharing funds, and to establish and
3749 implement procedures compatible with the purposes of this article
3750 for the necessary financing of water and soil conservation
3751 district activities, including the administration of any federal
3752 funds made available for the use of the district.



3753 (m) To receive and expend funds or monies or other
3754 assets from any state or federal agency or any other source,
3755 public or private, in furtherance of the purposes of this article.

3756 (n) To sue and be sued in the name of the district; to
3757 have a seal, which seal shall be judicially noticed; to have
3758 perpetual succession unless terminated as hereinafter provided; to
3759 make and execute contracts and other instruments, necessary or
3760 convenient to the exercise of its powers; to make, and from time
3761 to time amend and repeal rules and regulations not inconsistent
3762 with this article, to carry into effect its purposes and powers.

3763 (o) As a condition to the extending of any benefits
3764 under this article to, or the performance of work upon, any lands
3765 not owned or controlled by this state or any of its agencies, the
3766 commissioners may require contributions in money, services,
3767 materials, or otherwise to any operations conferring such
3768 benefits, and may require landowners and operators to enter into
3769 and perform such agreements or covenants as to the permanent use
3770 of such lands as will tend to prevent or control erosion thereon.

3771 (p) Except for Section 29-5-2.2, no other provision
3772 with respect to the acquisition, operation, or disposition of
3773 property by other public bodies shall be applicable to a district
3774 organized hereunder unless the Legislature shall specifically so
3775 state.

3776 **SECTION 28.** Section 71-3-85, Mississippi Code of 1972, is
3777 amended as follows:



3778 71-3-85. (1) There is hereby created a commission to be
3779 known as the * * * Workers' Compensation Commission, consisting of
3780 three (3) members, who shall devote their entire time to the
3781 duties of the office. The Governor shall appoint the members of
3782 the commission, by and with the consent of the Mississippi State
3783 Senate, one (1) for a term of two (2) years, one (1) for a term of
3784 four (4) years, and one (1) for a term of six (6) years. Upon the
3785 expiration of each term as above set forth, the Governor shall
3786 appoint a successor for a term of six (6) years, and thereafter
3787 the term of office of each commissioner shall be for six (6)
3788 years. One (1) member shall be a person who by reason of his
3789 previous vocation or affiliation can be classed as a
3790 representative of employers, and one (1) member shall be a person
3791 who by reason of his previous vocation or affiliation can be
3792 classed as a representative of employees. One (1) member shall be
3793 an attorney at law of recognized ability with at least five (5)
3794 years' active practice in Mississippi prior to his appointment.
3795 The Governor shall designate the chairman of the commission, whose
3796 term of chairman shall run concurrently with his appointment as a
3797 commissioner.

3798 The chairman shall be the administrative head of the
3799 commission and shall have the final authority in all matters
3800 relating to assignment of cases for hearing and trial and the
3801 administrative work of the commission and its employees, except in
3802 the promulgation of rules and regulations wherein the commission



3803 shall act as a body, and in the trial and determination of cases
3804 as otherwise provided.

3805 Upon the expiration of the term of a commissioner, he shall
3806 continue to serve until his successor has been appointed. Because
3807 cumulative experience is conspicuously essential to the proper
3808 administration of a * * * Workers' Compensation Law, it is
3809 declared to be in the public interest to continue * * * Workers'
3810 Compensation Commissioners in office as long as efficiency is
3811 demonstrated. A commissioner may be removed for cause prior to
3812 the expiration of his term, but shall be furnished a written copy
3813 of the charges against him and shall be accorded a public hearing.

3814 Each member of the commission and each administrative law
3815 judge shall receive an annual salary fixed by the Legislature.

3816 (2) A vacancy in the commission, if there remain two (2)
3817 members of it, shall not impair the authority of such two (2)
3818 members to act. In case of illness or continued absence for other
3819 reasons, the same authority of such two (2) members shall apply.

3820 (3) The commission shall have the powers and duties
3821 necessary for effecting the purposes of this chapter, including
3822 the powers of a court of record for compelling the attendance of
3823 witnesses, examining them under oath, and compelling the
3824 production of books, papers, documents and objects relevant to the
3825 determination of a claim for compensation, and the power to adopt
3826 rules and regulations and make or approve the forms relating to
3827 notices of injuries, payment of claims and other purposes. The



3828 authority of the commission and its duly authorized
3829 representatives to investigate and determine claims for
3830 compensation shall include the right to enter the premises where
3831 an injury occurred, to ascertain its causes and circumstances.

3832 (4) The office of the commission shall be situated in the
3833 City of Jackson, but hearings may be held at such places as it may
3834 deem most convenient for the proper and speedy performance of its
3835 duties. Consistent with Section 29-5-2.2, the commission is
3836 authorized, if it deems it necessary for the convenient and
3837 efficient dispatch of business, to lease office space and
3838 facilities in other than publicly owned buildings.

3839 (5) The commission shall adopt detailed rules and
3840 regulations for implementing the purposes of this chapter at
3841 hearings attended by the main parties interested. Such rules,
3842 upon adoption, shall be published and be at all reasonable times
3843 made available to the public and, if not inconsistent with law,
3844 shall be binding upon those participating in the responsibilities
3845 and benefits of the * * * Workers' Compensation Law.

3846 (6) The commission shall adopt or approve the forms required
3847 for administering the chapter, such notices of injury, application
3848 for benefits, receipts for compensation and all other forms needed
3849 to assure the orderly and prompt operation of the law, and may
3850 require the exclusive use of any or all such approved forms.

3851 **SECTION 29.** Section 73-7-3, Mississippi Code of 1972, is
3852 amended as follows:



3853 73-7-3. The board shall be authorized to employ such
3854 clerical and stenographic assistance, bookkeepers, investigators
3855 and other agents as they may deem necessary to carry out the
3856 provisions of this chapter, and to fix their tenure of employment
3857 and compensation therefor. The members of the board shall file a
3858 bond with the Secretary of State in the sum of not less than Five
3859 Thousand Dollars (\$5,000.00) payable to the State of Mississippi
3860 for the faithful performance of their duties. The bond shall be
3861 made by a surety company authorized to do business in this state,
3862 the premium of the bond to be paid out of any money in the board's
3863 special fund in the State Treasury.

3864 The office of the board shall be located in the greater
3865 metropolitan area of the City of Jackson, Mississippi, and in the
3866 event office space cannot be obtained in any state-owned building,
3867 the board, consistent with Section 29-5-2.2, is authorized to rent
3868 suitable office space and to pay therefor out of funds in the
3869 board's special fund. The board shall employ inspectors as
3870 needed, not to exceed seven (7), who shall be full-time employees
3871 and whose salaries and duties shall be fixed by the board.

3872 The salaries of all paid employees of the board shall be paid
3873 out of the funds in the board's special fund. The inspectors
3874 shall, in addition to their salaries, be reimbursed for such
3875 expenses as are allowed other state employees under the provisions
3876 of Section 25-3-41. In addition to the paying of office rent, the
3877 board is authorized to purchase necessary office furniture and



3878 equipment, stationery, books, certificates and any other equipment
3879 necessary for the proper administration of this chapter.

3880 **SECTION 30.** Section 73-17-7, Mississippi Code of 1972, is
3881 amended as follows:

3882 73-17-7. (1) There is hereby created the Mississippi State
3883 Board of Nursing Home Administrators. This board shall consist of
3884 seven (7) persons, in addition to the State Health Officer, or his
3885 designee, who shall be an ex * * * officio member without voting
3886 privilege, to be appointed by the Governor with the advice and
3887 consent of the Senate, each of whom shall be a qualified elector
3888 of the State of Mississippi; the members of said board shall be
3889 selected from a list of names submitted to the Governor as
3890 provided for hereinafter. In making initial appointments, three
3891 (3) members shall be appointed for a term of two (2) years; two
3892 (2) members shall be appointed for terms of three (3) years; and
3893 two (2) members for terms of four (4) years; and until their
3894 successors are appointed and qualified; thereafter, the terms of
3895 the members of the said board shall be for four (4) years and
3896 until their successors are appointed and qualified. In the event
3897 of the occurrence of a vacancy during the term of office of its
3898 incumbent, such vacancy shall be filled for the unexpired portion
3899 of the term. The members of this board shall include the
3900 following:



3901 (a) One (1) educator with expertise in the field of
3902 health care and associated at the time of his appointment with an
3903 institution of higher learning within the state of Mississippi.

3904 (b) A registered nurse.

3905 (c) A licensed and practicing medical doctor or
3906 physician.

3907 (d) Three (3) licensed and practicing nursing home
3908 administrators, no more than one (1) of whom shall be from the
3909 same Supreme Court district, who shall have had at least five (5)
3910 years' actual experience as a nursing home administrator.

3911 (e) A hospital administrator.

3912 Only the board members who are nursing home administrators
3913 may have a direct financial interest in any nursing home.

3914 The Mississippi Nurses Association may submit a list of
3915 nominees for the appointment of the registered nurse member; the
3916 Mississippi State Medical Association may submit a list of
3917 nominees for the appointment of the medical doctor or physician
3918 member; the Mississippi Health Care Association and the
3919 Mississippi Health Facilities Association may submit lists of
3920 nominees for the appointment of the nursing home administrator
3921 members; and the Mississippi State Hospital Association may submit
3922 a list of nominees for the appointment of the hospital
3923 administrator member. Any such list of nominees shall be
3924 submitted at least thirty (30) days before the expiration of the
3925 term for each position.



3926 Vacancies occurring on the board shall be filled by
3927 appointment by the Governor of individuals having the same
3928 prerequisite qualifications as required by this section for the
3929 vacancy being filled. The affected group may submit a list of
3930 nominees not more than thirty (30) days after a vacancy occurs.

3931 (2) The board shall organize by selecting annually from its
3932 members a chairman and a vice * * * chairman, and may do all things
3933 necessary and convenient for carrying into effect the provisions
3934 of this chapter and may from time to time promulgate rules and
3935 regulations. Each member of the board shall receive a per diem as
3936 provided in Section 25-3-69, plus travel and reasonable necessary
3937 expenses incidental to the attendance at each meeting as provided
3938 in Section 25-3-41. Any member who shall not attend two (2)
3939 consecutive meetings of the board shall be subject to removal by
3940 the Governor. The chairman of the board shall notify the Governor
3941 in writing when any such member has failed to attend two (2)
3942 consecutive regular meetings.

3943 (3) The board shall adopt a seal.

3944 (4) The board is hereby authorized to acquire office space,
3945 consistent with Section 29-5-2.2, and to employ such personnel as
3946 shall be necessary in the performance of its duties, including a
3947 secretary-treasurer, who shall be bonded in an amount to be fixed
3948 by the board, but in no event less than the amount of Five
3949 Thousand Dollars (\$5,000.00).



3950 (5) All fees and any other monies received by the board
3951 shall be deposited in a special fund that is created in the State
3952 Treasury. The monies in the special fund shall be subject to all
3953 provisions of the state budget laws that are applicable to special
3954 fund agencies. Any interest earned on this special fund shall be
3955 credited by the State Treasurer to the fund and shall not be paid
3956 into the State General Fund.

3957 **SECTION 31.** Section 73-39-57, Mississippi Code of 1972, is
3958 amended as follows:

3959 73-39-57. The board may:

3960 (a) Adopt, amend or repeal all rules necessary for its
3961 government and all regulations necessary to implement this
3962 chapter, including the establishment and publication of standards
3963 of practice and professional conduct for the practice of
3964 veterinary medicine.

3965 (b) Adopt, promulgate and enforce rules and regulations
3966 relating to specific duties and responsibilities; certification,
3967 registration or licensure; and other matters pertaining to
3968 veterinary technicians or nonlicensed persons consistent with this
3969 chapter.

3970 (c) Initiate disciplinary procedures, hold hearings,
3971 reprimand, suspend, revoke or refuse to issue or renew credentials
3972 and perform any other acts that may be necessary to regulate
3973 veterinary technicians and technologists.



3974 (d) Examine by established protocol the qualifications
3975 and fitness of applicants for a license to practice veterinary
3976 medicine in this state.

3977 (e) Issue, renew or deny the licenses and temporary
3978 permits to practice veterinary medicine.

3979 (f) Limit, suspend or revoke the licenses of
3980 disciplined veterinarians or otherwise discipline licensed
3981 veterinarians consistent with this chapter and applicable rules
3982 and regulations.

3983 (g) Establish and publish annually a schedule of fees
3984 for licensing and certification.

3985 (h) Conduct investigations of suspected violations of
3986 this chapter to determine whether there are sufficient grounds to
3987 initiate disciplinary proceedings.

3988 (i) Inspect veterinary premises and equipment,
3989 including practice vehicles, on a triennial basis and assess an
3990 inspection fee in the amount of One Hundred Dollars (\$100.00) per
3991 inspection and an additional fee of Fifty Dollars (\$50.00) for
3992 each licensed veterinarian employed by the inspected veterinary
3993 establishment.

3994 (j) Hold hearings on all matters properly brought
3995 before the board, to administer oaths, receive evidence, make
3996 necessary determinations and enter orders consistent with the
3997 findings. The board may require by subpoena the attendance and
3998 testimony of witnesses and the production of papers, records or



3999 other documentary evidence and commission depositions. The board
4000 may designate one or more of its members to serve as its hearing
4001 officer. The board shall adopt rules and regulations for hearings
4002 before the board and the rules shall afford any person appearing
4003 before the board the safeguards of procedural due process. Formal
4004 rules of evidence shall not apply.

4005 (k) Employ full- or part-time personnel necessary to
4006 implement this chapter and consistent with Section 29-5-2.2,
4007 purchase or rent necessary office space, equipment and supplies.

4008 (l) Appoint from its own membership one or more members
4009 to act as representatives of the board at any meeting within or
4010 outside the state.

4011 (m) Bring proceedings in the courts against any person
4012 for the enforcement of this chapter or any regulations made
4013 pursuant thereto.

4014 The powers enumerated herein are granted for the purpose of
4015 enabling the board to supervise effectively the practice of
4016 veterinary medicine and veterinary technology and are to be
4017 construed liberally to accomplish this objective.

4018 **SECTION 32.** Section 99-18-13, Mississippi Code of 1972, is
4019 amended as follows:

4020 99-18-13. The State Defender is hereby empowered to pay and
4021 disburse salaries, employment benefits and charges relating to
4022 employment of division staff and to establish their salaries and
4023 expenses of the office; to incur and pay travel expenses of staff



4024 necessary for the performance of the duties of the office;
4025 consistent with Section 29-5-2.2, to rent or lease on such terms
4026 as he may think proper such office space as is necessary in the
4027 City of Jackson to accommodate the staff; to enter into and
4028 perform contracts and to purchase such necessary office supplies
4029 and equipment as may be needed for the proper administration of
4030 said offices within the funds appropriated for such purpose; and
4031 to incur and pay such other expenses as are appropriate and
4032 customary to the operation of the office.

4033 **SECTION 33.** Section 99-39-113, Mississippi Code of 1972, is
4034 amended as follows:

4035 99-39-113. In addition to the authority to represent persons
4036 under sentence of death in state post-conviction proceedings, the
4037 director is hereby empowered to pay and disburse salaries,
4038 employment benefits and charges relating to employment of staff
4039 and to establish their salaries and expenses of the office; to
4040 incur and pay travel expenses of staff necessary for the
4041 performance of the duties of the office; consistent with Section
4042 29-5-2.2, to rent or lease on such terms as he may think proper
4043 such office space as is necessary in the City of Jackson to
4044 accommodate the staff; to solicit and accept monies, gifts, grants
4045 or services from any public or private sources for the purpose of
4046 funding, operating and executing the statutory duties of the
4047 office; to enter into and perform contracts, including, but not
4048 limited to, contracts and agreements necessary to obtain and



4049 receive monies, gifts, grants or services from federal, public and
4050 private sources, and to purchase such necessary office supplies
4051 and equipment as may be needed for the proper administration of
4052 said offices; and to incur and pay such other expenses as are
4053 appropriate and customary to the operations of the office. The
4054 director shall be required to obtain a surety bond in the amount
4055 of not less than One Hundred Thousand Dollars (\$100,000.00)
4056 payable to the state. The cost of such bond shall be paid out of
4057 funds appropriated for the operations of the office. All salaries
4058 and other expenditures shall be paid from funds appropriated for
4059 such purposes augmented by funds received as gifts and grants from
4060 public and private sources.

4061 **SECTION 34.** This act shall take effect and be in force from
4062 and after its passage.

