

By: Representatives Turner, Ladner

To: Accountability,  
Efficiency, Transparency;  
Conservation and Water  
Resources

## HOUSE BILL NO. 538

1 AN ACT TO AMEND SECTION 51-15-118, MISSISSIPPI CODE OF 1972,  
2 TO PROVIDE THAT ANY PARTICIPATING COUNTY IN THE PAT HARRISON  
3 WATERWAY DISTRICT THAT IS WITHDRAWING FROM THE DISTRICT, SUCH  
4 WITHDRAWAL SHALL NOT BECOME EFFECTIVE UNTIL THE CLOSE OF THE  
5 FISCAL YEAR IN WHICH THE COUNTY HAS SATISFIED CERTAIN OBLIGATIONS  
6 WITH THE DISTRICT; TO AMEND SECTION 51-15-119, MISSISSIPPI CODE OF  
7 1972, TO REQUIRE THE BOARD OF DIRECTORS OF THE DISTRICT TO PROVIDE  
8 TO THE CHAIRMEN OF THE HOUSE AND SENATE APPROPRIATIONS COMMITTEES  
9 CERTAIN ANNUAL PLANS CONCERNING THE DISTRICT; AND FOR RELATED  
10 PURPOSES.

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

12 **SECTION 1.** Section 51-15-118, Mississippi Code of 1972, is  
13 amended as follows:

14 51-15-118. From and after July 1, 1999, the board of  
15 supervisors of any county that is included in the Pat Harrison  
16 Waterway District may elect to withdraw such county from the  
17 district. The withdrawing county shall be responsible for paying  
18 its portion of any district bonds, contractual obligations, and  
19 any other indebtedness and liabilities of the district that are  
20 outstanding on the date of such county's withdrawal from the  
21 district. The withdrawing county's portion of such liabilities,  
22 obligations and indebtedness shall be determined through an



independent audit conducted by a certified public accountant. The board of supervisors of the withdrawing county shall provide the sum that is required by this section either by appropriation from any available funds of the county or by levy. Such board of supervisors may borrow funds as needed to satisfy the withdrawing county's portion of the liabilities, obligations and indebtedness of the district as required herein. No withdrawal shall become effective until the close of the fiscal year in which the county has satisfied its obligations under this section.

**SECTION 2.** Section 51-15-119, Mississippi Code of 1972, is amended as follows:

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

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



48           (b) To impound overflow water and the surface water of  
49 any streams in the Pat Harrison Waterway District or its  
50 tributaries within the project area, within or without the  
51 district, at the place or places and in the amount as may be  
52 approved by the Office of Land and Water Resources of the State of  
53 Mississippi, by the construction of a dam or dams, reservoir or  
54 reservoirs, work or works, plants and any other necessary or  
55 useful related facilities contemplated and described as a part of  
56 the project within and without the district, to control, store,  
57 and preserve these waters, and to use, distribute, and sell them,  
58 to construct or otherwise acquire within the project area all  
59 works, plants or other facilities necessary or useful to the  
60 project for processing the water and transporting it to cities and  
61 other facilities necessary or useful to the project for the  
62 purpose of processing the water and transporting it to cities and  
63 other facilities for domestic, municipal, commercial, industrial,  
64 agricultural and manufacturing purposes, and is hereby given the  
65 power to control open channels for water delivery purposes and  
66 water transportation.

67           (c) To acquire and develop any other available water  
68 necessary or useful to the project and to construct, acquire, and  
69 develop all facilities within the project area deemed necessary or  
70 useful with respect thereto.

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



73 prevention of soil erosion and flood within the area; to control,  
74 store and preserve within the boundaries of the project area the  
75 waters of any streams in the area, for irrigation of lands and for  
76 prevention of water pollution.

77 (e) To acquire by condemnation all property of any  
78 kind, real, personal or mixed, or any interest therein, within or  
79 without the boundaries of the district, necessary for the project  
80 and the exercise of the powers, rights, privileges and functions  
81 conferred upon the district by this article, according to the  
82 procedure provided by law for the condemnation of lands or other  
83 property taken for rights-of-way or other purposes by railroad,  
84 telephone or telegraph companies and according to the provisions  
85 of Section 29-1-1. For the purposes of this article the right of  
86 eminent domain of the district shall be superior and dominant to  
87 the right of eminent domain of railroad, telegraph, telephone,  
88 gas, power and other companies or corporations and shall be  
89 sufficient to enable the acquisition of county roads, state  
90 highways or other public property in the project area, and the  
91 acquisition or relocation of this property in the project area.  
92 The cost of right-of-way purchases, rerouting and elevating all  
93 other county-maintained roads affected by construction shall be  
94 borne by the water management district, and new construction shall  
95 be of equal quality as in roads existing as of June 1, 1962. The  
96 county in which such work is done may assist in these costs if the  
97 board of supervisors desires.



98           The amount and character of interest in land, other property  
99   and easements to be acquired shall be determined by the board of  
100   directors, and their determination shall be conclusive and shall  
101   not be subject to attack in the absence of manifold abuse of  
102   discretion or fraud on the part of such board in making this  
103   determination.   However,

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

108                   (ii)   No person or persons owning the drilling  
109   rights or the right to share in production shall be prevented from  
110   exploring, developing or producing oil or gas with necessary  
111   rights-of-way for ingress and egress, pipelines and other means of  
112   transporting these products by reason of the inclusion of the  
113   lands or mineral interests within the project area, whether below  
114   or above the water line, but any activities shall be under  
115   reasonable regulations by the board of directors that will  
116   adequately protect the project; and

117                   (iii)   In drilling and developing, these persons  
118   are hereby vested with a right to have mineral interests  
119   integrated and their lands developed in the drilling unit or units  
120   that the State Oil and Gas Board shall establish after due  
121   consideration of the rights of all owners to be included in the  
122   drilling unit.



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

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



148 from the board of directors for a price not exceeding the price  
149 paid for his land, plus any permanent improvements and plus the  
150 cost of condemnation.

151 (f) To require the necessary relocation of roads and  
152 highways, railroad, telephone and telegraph lines and properties,  
153 electric power lines, pipelines, and mains and facilities in the  
154 project area, or to require the anchoring or other protection of  
155 any of these, provided due compensation is first paid the owners  
156 thereof or agreement is had with the owners regarding the payment  
157 of the cost of relocation. Further, the district is hereby  
158 authorized to acquire easements or rights-of-way in or outside of  
159 the project area for the relocation of roads, highways, railroad,  
160 telephone and telegraph lines and properties, electric power  
161 lines, pipelines, and mains and facilities, and to convey them to  
162 the owners thereof in connection with the relocation as a part of  
163 the construction of the project. However, the directors of the  
164 district shall not close any public access road to the project  
165 existing prior to the construction of the reservoir unless the  
166 board of supervisors of the county in which the road is located  
167 agrees.

168 (g) To overflow and inundate any public lands and  
169 public property, including sixteenth section lands and in lieu  
170 lands, within the project area.

171 (h) To construct, extend, improve, maintain and  
172 reconstruct, to cause to be constructed, extended, improved,



maintained and reconstructed, and to use and operate all facilities of any kind within the project area necessary or convenient to the project and to the exercise of powers, rights, privileges and functions.

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

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

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

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

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





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

202           (o) To apply for and accept grants from the United  
203 States of America or from any corporation or agency created or  
204 designated by the United States of America, and to ratify and  
205 accept applications heretofore or hereafter made by voluntary  
206 associations to these agencies for grants to construct, maintain  
207 or operate any project or projects which hereafter may be  
208 undertaken or contemplated by the district.

209           (p) To do all other acts or things necessary,  
210 requisite, or convenient to the exercising of the powers, rights,  
211 privileges or functions conferred upon it by this article or any  
212 other law.

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

215           (r) To enter into contracts with municipalities,  
216 corporations, districts, public agencies, political subdivisions  
217 of any kind, and others for any services, facilities or  
218 commodities that the project may provide. The district is also  
219 authorized to contract with any municipality, corporation or  
220 public agency for the rental, leasing, purchase or operation of  
221 the water production, water filtration or purification, water  
222 supply and distributing facilities of the municipality,



223 corporation or public agency upon consideration as the district  
224 and entity may agree. Any contract may be upon any terms and for  
225 any time as the parties may agree, and it may provide that it  
226 shall continue in effect until bonds specified therein and  
227 refunding bonds issued in lieu of these bonds and all obligations  
228 are paid. Any contract with any political subdivision shall be  
229 binding upon the political subdivisions according to its terms,  
230 and the municipalities or other political subdivisions shall have  
231 the power to enter into these contracts as in the discretion of  
232 the governing authorities thereof would be to the best interest of  
233 the people of the municipality or other political subdivisions.  
234 These contracts may include within the discretion of the governing  
235 authorities a pledge of the full faith and credit of the political  
236 subdivisions for the performance thereof.

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

241 (t) To operate and maintain within the project area,  
242 with the consent of the governing body of any city or town located  
243 within the district, any works, plants or facilities of any city  
244 deemed necessary or convenient to the accomplishment of the  
245 purposes for which the district is created.

246 (u) Subject to the provisions of this article, from  
247 time to time to lease, sell or otherwise lawfully dispose of



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

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

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

(x) To acquire by purchase, lease, gift or in any other manner (otherwise than by condemnation) and to maintain, use and operate all property of any kind, real, personal or mixed, or any interest therein within the project area, within or without the boundaries of the district, necessary for the project and



convenient to the exercise of the powers, rights, privileges and functions conferred upon the district by this article.

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

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

(aa) To contract with persons, who are certified according to the minimum standards established by the Board on Law Enforcement Officer Standards and Training under Section 45-6-1 et seq., to serve as peace officers with the power to make arrests for violations of regulations of the district. Such officers are authorized to carry weapons and to enforce the laws of the state within the confines of district parks and property. All persons with which the district has contracted under this paragraph (aa) shall be independent contractors and shall not be considered as employees under Chapter 46 \* \* \*, Title 11, Mississippi Code of 1972.



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

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

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

**SECTION 3.** This act shall take effect and be in force from and after July 1, 2023.

