

By: Representative Yancey

To: Conservation and Water Resources

HOUSE BILL NO. 1068

1 AN ACT TO CREATE THE WATER QUALITY ACCOUNTABILITY ACT; TO
2 DEFINE CERTAIN TERMS RELATING TO WATER AND WASTEWATER UTILITIES;
3 TO PROVIDE THAT A WATER OR WASTEWATER UTILITY IS SUBJECT TO THE
4 JURISDICTION OF THE PUBLIC SERVICE COMMISSION WITH RESPECT TO
5 RATES, CHARGES, CERTAIN EVIDENCE OF INDEBTEDNESS, RULES AND ANNUAL
6 REPORT FILINGS; TO PROVIDE CERTAIN REQUIREMENTS REGARDING WATER OR
7 WASTEWATER UTILITIES THAT REQUEST A LOAN OR FINANCIAL ASSISTANCE;
8 TO PROVIDE CERTAIN PERMIT AND PERMIT APPLICATION REQUIREMENTS; TO
9 BRING FORWARD SECTIONS 19-5-151, 19-5-153, 19-5-155, 19-5-157,
10 19-5-159, 19-5-161, 19-5-163, 19-5-164, 19-5-165, 19-5-167,
11 19-5-169, 19-5-171, 19-5-173, 19-5-175, 19-5-177, 19-5-179,
12 19-5-181, 19-5-183, 19-5-185, 19-5-187, 19-5-189, 19-5-191,
13 19-5-193, 19-5-195, 19-5-197, 19-5-199, 19-5-201, 19-5-203,
14 19-5-204, 19-5-205 AND 19-5-207, MISSISSIPPI CODE OF 1972, WHICH
15 RELATE TO WATER, SEWER, GARBAGE DISPOSAL AND FIRE PROTECTION
16 DISTRICTS, FOR PURPOSES OF POSSIBLE AMENDMENT; TO BRING FORWARD
17 SECTIONS 21-27-11, 21-27-13, 21-27-15, 21-27-17, 21-27-19,
18 21-27-21, 21-27-23, 21-27-25, 21-27-27, 21-27-29, 21-27-31,
19 21-27-33, 21-27-35, 21-27-37, 21-27-39, 21-27-41, 21-27-43,
20 21-27-45, 21-27-47, 21-27-49, 21-27-51, 21-27-53, 21-27-55,
21 21-27-57, 21-27-59, 21-27-61, 21-27-63, 21-27-65, 21-27-67,
22 21-27-69, 21-27-71, 21-27-73, 21-27-75 AND 21-27-77, MISSISSIPPI
23 CODE OF 1972, WHICH RELATE TO MUNICIPALLY-OWNED UTILITIES, FOR
24 PURPOSES OF POSSIBLE AMENDMENT; TO BRING FORWARD SECTIONS
25 21-27-161, 21-27-163, 21-27-165, 21-27-167, 21-27-169, 21-27-171,
26 21-27-173, 21-27-175, 21-27-177, 21-27-179, 21-27-181, 21-27-183,
27 21-27-185, 21-27-187, 21-27-189 AND 21-27-191, MISSISSIPPI CODE OF
28 1972, WHICH RELATE TO METROPOLITAN AREA WASTE DISPOSAL, FOR
29 PURPOSES OF POSSIBLE AMENDMENT; TO BRING FORWARD SECTIONS 41-67-1,
30 41-67-2, 41-67-3, 41-67-4, 41-67-5, 41-67-6, 41-67-7, 41-67-9,
31 41-67-10, 41-67-11, 41-67-12, 41-67-15, 41-67-19, 41-67-21,
32 41-67-23, 41-67-25, 41-67-27, 41-67-28, 41-67-29, 41-67-31,
33 41-67-33, 41-67-37, 41-67-39, 41-67-41 AND 41-67-101, MISSISSIPPI
34 CODE OF 1972, WHICH RELATE TO THE MISSISSIPPI INDIVIDUAL ON-SITE



35 WASTEWATER DISPOSAL SYSTEM LAW, FOR PURPOSES OF POSSIBLE
36 AMENDMENT; TO BRING FORWARD SECTIONS 49-17-81, 49-17-83, 49-17-85,
37 49-17-86, 49-17-87 AND 49-17-89, MISSISSIPPI CODE OF 1972, WHICH
38 RELATE TO THE WATER POLLUTION CONTROL REVOLVING FUND, FOR PURPOSES
39 OF POSSIBLE AMENDMENT; TO BRING FORWARD SECTIONS 51-41-1, 51-41-3,
40 51-41-5, 51-41-7, 51-41-9, 51-41-11, 51-41-13, 51-41-15, 51-41-17,
41 51-41-19, 51-41-21, 51-41-23, 51-41-25, 51-41-27, 51-41-29,
42 51-41-31 AND 51-41-33, MISSISSIPPI CODE OF 1972, WHICH RELATE TO
43 PUBLIC WATER AUTHORITIES, FOR PURPOSES OF POSSIBLE AMENDMENT; TO
44 BRING FORWARD SECTIONS 77-3-1, 77-3-5 AND 77-3-97, MISSISSIPPI
45 CODE OF 1972, WHICH RELATE TO THE PUBLIC SERVICE COMMISSION, FOR
46 PURPOSES OF POSSIBLE AMENDMENT; AND FOR RELATED PURPOSES.

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

48 **SECTION 1.** As used in this act, the following words have the
49 meanings as defined in this section, unless the context clearly
50 requires otherwise:

51 (a) "Commission" means Public Service Commission.

52 (b) "Public utility" has the same meaning as the term
53 "public utility" as defined in Section 77-3-3.

54 (c) "Water or wastewater utility" means a public
55 utility that provides water service, wastewater service, or both
56 water service and wastewater service to the public.

57 **SECTION 2.** (1) A water or wastewater utility that is
58 organized as a legal entity is subject to the jurisdiction of the
59 Public Service Commission with respect to:

60 (a) Rates and charges;

61 (b) Stocks, bonds, notes, or other evidence of
62 indebtedness;

63 (c) Rules; and

64 (d) The annual report filing requirement;



65 for the period of ten (10) years beginning on the day on which the
66 water or wastewater utility is organized as a legal entity.

67 (2) This section shall not apply to:

68 (a) Any statutes requiring or permitting a water or
69 wastewater utility to petition the commission before providing
70 service to the public; or

71 (b) The commission's jurisdiction regarding provisions
72 of law and petitions referred to in subsection (2) (a) of this
73 section.

74 **SECTION 3.** (1) If a water or wastewater utility requests a
75 loan or other financial assistance from the commission, such
76 request must be accompanied by the following:

77 (a) All papers and opinions required by the commission.

78 (b) Unless otherwise provided by the guidelines of the
79 commission, the following:

80 (i) An approving opinion of a nationally
81 recognized bond counsel.

82 (ii) A certification and guarantee of signatures.

83 (iii) A certification that, as of the date of the
84 loan or other financial assistance:

85 1. No litigation is pending challenging the
86 validity of or entry into the loan or other financial assistance
87 or any security for the loan or other financial assistance; or

88 2. If litigation is pending, the litigation
89 will not have a material adverse effect on the validity of the



90 loan or other financial assistance or any security for the loan or
91 other financial assistance.

92 (iv) If litigation is pending, as an alternative
93 to the certification as described in subparagraph (iii), an
94 opinion of legal counsel that the litigation will not have a
95 material adverse effect on the validity of the loan or other
96 financial assistance.

97 (v) Documentation demonstrating that the water or
98 wastewater utility has the financial, managerial, technical, and
99 legal capability of operating and maintaining its wastewater
100 collection and treatment system.

101 (2) Each water or wastewater utility to which, or for the
102 benefit of which, a loan would be made or other financial
103 assistance would be provided under this act, must demonstrate that
104 it has developed, or is in the process of developing, an asset
105 management program as set forth by the commission.

106 **SECTION 4.** (1) A permit for the operation of a water
107 treatment plant or a wastewater treatment plant that is issued, or
108 amended for the purposes of the inclusion of a newly constructed
109 or newly acquired plant, or the expansion of an existing plant,
110 after the effective date of this act is subject to the
111 requirements set forth in Sections 5 through 9 of this act.

112 (2) This act does not apply to the renewal of a permit for
113 the operation of a water treatment plant or wastewater treatment
114 plant.



115 **SECTION 5.** A permit described in Section 4, subsection (1)
116 of this act may not be issued unless the applicant submits, along
117 with the permit application, a certification that all of the
118 following documents have been prepared and are complete under the
119 requirements of this act:

120 (a) A life cycle cost-benefit analysis, as described in
121 Section 6 of this act.

122 (b) A capital asset management plan, as described in
123 Section 7 of this act.

124 (c) A cybersecurity plan, as described in Section 8 of
125 this act.

126 **SECTION 6.** A water or wastewater utility's life cycle
127 cost-benefit analysis shall include a comparison of:

128 (a) Meeting the water supply or wastewater service
129 needs of the community or area served or proposed to be served
130 through the operation of the water and wastewater treatment plant,
131 as owned and operated, or proposed to be owned and operated
132 according to the terms of the permit application; and

133 (b) Meeting the water supply or wastewater service
134 needs of the community or area served or proposed to be served
135 through one (1) or more other potential means.

136 **SECTION 7.** A water or wastewater utility's capital asset
137 management plan shall include all of the following:

138 (a) A plan to annually review infrastructure needs of
139 the water or wastewater treatment plant.



140 (b) A detailed engineering analysis of asset conditions
141 and useful life, to be used to develop an infrastructure
142 inspection, repair and maintenance plan.

143 (c) An analysis of customer rates necessary to support
144 the capital asset management plan, including emergency repairs.

145 (d) A certification that the water or wastewater
146 treatment plant that has:

147 (i) A certified operator;
148 (ii) A corporate officer or system manager; and
149 (iii) Access to an engineer, either on staff or by
150 contract.

151 (e) A detailed map of the geographic location of each
152 major component of the water or wastewater system, including, but
153 not limited to, each valve and fire hydrant in the system, using a
154 global positioning system based on satellite or other location
155 technology.

156 **SECTION 8.** A water or wastewater utility's cybersecurity
157 plan shall provide for the protection of the water or wastewater
158 treatment plant from unauthorized use, alteration, or destruction
159 of electronic data.

160 **SECTION 9.** (1) The water or wastewater utility's analysis
161 and plans as provided in Sections 6, 7, and 8 of this act shall
162 be:



163 (a) Complete under the requirements of this act at the
164 time an application for a permit, as described in Section 4,
165 subsection (1) of this act, is submitted;

166 (b) Reviewed and revised at least once every five (5)
167 years, for as long as the permit holder operates the water
168 treatment plant or wastewater treatment plant; and

169 (c) Made publicly available.

170 (2) A certification that the analysis and plans as provided
171 in Sections 6, 7, and 8 of this act are complete under the
172 requirements of this act shall be submitted to the commission:

173 (a) Under Section 5 of this act at the time an
174 application for a permit described in Section 4, subsection (1) of
175 this act is submitted; and

176 (b) At least once every five (5) years after an
177 application for a permit described in Section 4, subsection (1) of
178 this act is submitted, when the analysis and plans are reviewed
179 and revised under subsection (1)(b) of this Section 9.

180 (3) A certification submitted to the commission under this
181 act shall be notarized. Failure to include a notarized
182 certification with an application for a permit as provided in
183 Section 4, subsection (1) of this act constitutes grounds for
184 denial of the permit application.

185 **SECTION 10.** Section 19-5-151, Mississippi Code of 1972, is
186 brought forward as follows:



187 19-5-151. (1) Any contiguous area situated within any
188 county of the state, and not being situated within the corporate
189 boundaries of any existing municipality, and having no adequate
190 water system, sewer system, garbage and waste collection and
191 disposal system, or fire protection facilities serving such area,
192 may become incorporated as a water district, as a sewer district,
193 as a garbage and waste collection and disposal district, as a fire
194 protection district, as a combined water and sewer district, as a
195 combined water and garbage and waste collection and disposal
196 district, as a combined water and fire protection district, or as
197 a combined water, sewer, garbage and waste collection and disposal
198 and fire protection district, in the manner set forth in the
199 following sections.

200 (2) If the certificated area of a nonprofit, nonshare
201 corporation chartered under the Mississippi Nonprofit Corporation
202 Act for the purpose of owning and operating rural waterworks lies
203 in one (1) county, the corporation may become incorporated as a
204 water district in the manner set forth in Section 19-5-153(3). If
205 the nonprofit, nonshare corporation's certificated area lies in
206 more than one (1) county, the procedure in Section 19-5-164 shall
207 be used.

208 **SECTION 11.** Section 19-5-153, Mississippi Code of 1972, is
209 brought forward as follows:

210 19-5-153. (1) A petition for the incorporation of a
211 district may be submitted to the board of supervisors of a county,



212 signed by not less than twenty-five (25) owners of real property
213 residing within the boundaries of the proposed district. The
214 petition shall include: (a) a statement of the necessity for the
215 service or services to be supplied by the proposed district; (b)
216 the proposed corporate name for the district; (c) the proposed
217 boundaries of the district; (d) an estimate of the cost of the
218 acquisition or construction of any facilities to be operated by
219 the district, which estimate, however, shall not serve as a
220 limitation upon the financing of improvements or extensions to the
221 facilities; (e) a statement of whether or not the board of
222 supervisors of the county shall exercise the authority to levy the
223 tax outlined in section 19-5-189, Mississippi Code of 1972; and
224 (f) a statement of whether or not the board of supervisors of the
225 county shall exercise the authority to make assessments as
226 outlined in section 19-5-191, Mississippi Code of 1972. The
227 petition shall be signed in person by the petitioners, with their
228 respective residence addresses. The petition shall be accompanied
229 by a sworn statement of the person or persons circulating the
230 petition, who shall state under oath that the person or persons
231 witnessed the signature of each petitioner, that each signature is
232 the signature of the person it purports to be, and that, to the
233 best of the person's or persons' knowledge, each petitioner was at
234 the time of signing an owner of real property within and a
235 resident of the proposed district. No individual tract of land
236 containing one hundred sixty (160) acres or more shall be included



237 in any such district unless the owner or owners of said tract is a
238 signer under oath of the petition for the incorporation of such
239 district.

240 (2) The board of supervisors of a county, in its discretion,
241 may initiate the incorporation of a district under Sections
242 19-5-151 through 19-5-207 by resolution of the board and
243 presentation of a petition signed by at least twenty-five (25)
244 property owners of the area to be incorporated if at least forty
245 (40) property owners reside within the district. However, no
246 individual tract of land containing one hundred sixty (160) acres
247 or more shall be included in any such district unless the owner or
248 owners of the tract gives written consent for the inclusion of the
249 lands in such district.

250 (3) The board of directors of a nonprofit, nonshare rural
251 waterworks corporation may petition the board of supervisors of a
252 county in which the corporation's certificated area lies to become
253 a water district under Sections 19-5-151 through 19-5-207. The
254 board of directors shall adopt a resolution at a special meeting
255 of the board. The meeting shall be open to any subscriber
256 provided water service by the corporation. The board shall mail a
257 notice of the meeting to each subscriber provided water service.
258 The resolution shall provide that information required of the
259 petition under subsection (1) of this section. The resolution
260 shall be adopted by a three-fifths (3/5) majority vote of the
261 board of directors.



262 (4) With respect to the incorporation and operation of a
263 fire protection district pursuant to Sections 19-5-151 through
264 19-5-207, the word "owners" shall include any lessees of real
265 property of a water supply district the term of whose original
266 lease is not less than sixty (60) years and shall also include
267 sublessees if the original lease of which they are subletting is
268 not less than sixty (60) years.

269 **SECTION 12.** Section 19-5-155, Mississippi Code of 1972, is
270 brought forward as follows:

271 19-5-155. Upon the filing of such petition, or upon the
272 adoption of a resolution declaring the intent of the board of
273 supervisors to incorporate such district, it shall then be the
274 duty of the board of supervisors of such county to fix a time and
275 place for a public hearing upon the question of the public
276 convenience and necessity of the incorporation of the proposed
277 district. The date fixed for such hearing shall be not more than
278 thirty (30) days after the filing of the petition, and the date of
279 the hearing, the place at which it shall be held, the proposed
280 boundaries of said district, and the purpose of the hearing, shall
281 be set forth in a notice to be signed by the clerk of the board of
282 supervisors of such county. Such notice shall be published in a
283 newspaper having general circulation within such proposed district
284 once a week for at least three (3) consecutive weeks prior to the
285 date of such hearing. The first such publication shall be made
286 not less than twenty-one (21) days prior to the date of such



287 hearing and the last such publication shall be made not more than
288 fourteen (14) days prior to the date of such hearing.

289 If, at such public hearing, the board of supervisors finds
290 (1) that the public convenience and necessity require the creation
291 of the district, and (2) that the creation of the district is
292 economically sound and desirable, the board of supervisors shall
293 adopt a resolution making the aforesaid findings and declaring its
294 intention to create the district on a date to be specified in such
295 resolution. Such resolution shall also designate the name of the
296 proposed district, define its territorial limits which shall be
297 fixed by said board pursuant to such hearing, and state whether or
298 not the board of supervisors shall levy the tax authorized in
299 Section 19-5-189, Mississippi Code of 1972, and whether or not the
300 board of supervisors proposes to assess benefited properties as
301 outlined in Section 19-5-191, Mississippi Code of 1972.

302 **SECTION 13.** Section 19-5-157, Mississippi Code of 1972, is
303 brought forward as follows:

304 19-5-157. A certified copy of the resolution so adopted
305 shall be published in a newspaper having a general circulation
306 within such proposed district once a week for at least three (3)
307 consecutive weeks prior to the date specified in such resolution
308 as the date upon which such board intends to create such district.
309 The first such publication shall be made not less than twenty-one
310 (21) days prior to the date specified, and the last such



311 publication shall be made not more than fourteen (14) days prior
312 to such date.

313 If twenty percent (20%) or one hundred fifty (150), whichever
314 is the lesser, of the qualified electors of such proposed district
315 file written petition with such board of supervisors on or before
316 the date specified aforesaid, protesting against the creation of
317 such district, the board of supervisors shall call an election on
318 the question of the creation of such district. Such election
319 shall be held and conducted by the election commissioners of the
320 county as nearly as may be in accordance with the general laws
321 governing elections, and such election commissioners shall
322 determine which of the qualified electors of such county reside
323 within the proposed district, and only such qualified electors as
324 reside within such proposed district shall be entitled to vote in
325 such election. Notice of such election setting forth the time,
326 place or places, and purpose of such election shall be published
327 by the clerk of the board of supervisors, and such notice shall be
328 published for the time and the manner provided in Section 19-5-155
329 for the publication of the resolution of intention. The ballots
330 to be prepared for and used at said election shall be in
331 substantially the following form:

332 "FOR CREATION OF _____ DISTRICT ()
333 AGAINST CREATION OF _____ DISTRICT ()"

334 and voters shall vote by placing a cross mark (x) or check mark
335 (✓) opposite their choice.



336 **SECTION 14.** Section 19-5-159, Mississippi Code of 1972, is
337 brought forward as follows:

338 19-5-159. If no petition requiring an election be filed or
339 if three-fifths (3/5) of those voting in said election provided in
340 Section 19-5-157 vote in favor of the creation of such district,
341 the board of supervisors shall adopt a resolution creating the
342 district as described in the resolution of intention.

343 **SECTION 15.** Section 19-5-161, Mississippi Code of 1972, is
344 brought forward as follows:

345 19-5-161. All costs incident to the publication of the
346 notices and all other costs incident to the public hearing and
347 election provided in Sections 19-5-153 through 19-5-157 may be
348 paid by the board of supervisors, in its discretion, or shall be
349 borne by the parties filing the petition, detailed in Section
350 19-5-153. The board of supervisors, in its discretion, may
351 require the execution of a cost bond by the parties filing the
352 petition. Such bond shall be in an amount and with good sureties
353 to guarantee the payment of such costs.

354 **SECTION 16.** Section 19-5-163, Mississippi Code of 1972, is
355 brought forward as follows:

356 19-5-163. Any party having an interest in the subject matter
357 and aggrieved or prejudiced by the findings and adjudication of
358 the board of supervisors may appeal to the circuit court of the
359 county in the manner provided by law for appeals from orders of
360 the board of supervisors. However, if no such appeal be taken



361 within a period of fifteen (15) days from and after the date of
362 the adoption of the resolution creating any such district, the
363 creation of such district shall be final and conclusive and shall
364 not thereafter be subject to attack in any court.

365 **SECTION 17.** Section 19-5-164, Mississippi Code of 1972, is
366 brought forward as follows:

367 19-5-164. A district embracing lands in more than one (1)
368 county may be created under the provision of Sections 19-5-151
369 through 19-5-207 by the following procedure if the portion of such
370 district located in each county includes twenty percent (20%) or
371 more of all of the lands to be embraced in a district:

372 (1) The portion of a proposed district containing the
373 largest area of land shall be first created into a district by the
374 board of supervisors of the county in which such largest portion
375 is situated, such county to be known as the "incorporating
376 county."

377 (2) The resolution first creating such district shall
378 include the exact boundaries of the lands situated in the
379 incorporating county and shall include the exact boundaries of the
380 contiguous area in other counties to be included in the district.

381 (3) The resolution by the incorporating county shall
382 designate the official name of the district and shall delineate
383 the procedure by which appointment of the five (5) commissioners
384 authorized by Section 19-5-167, Mississippi Code of 1972, shall be



385 apportioned among the counties in which portions of such districts
386 are located.

387 (4) The resolution adopted by the board of supervisors
388 of any county desiring to include contiguous lands into a district
389 initially created as outlined above shall contain exact and
390 identical provisions to those in the resolution by the board of
391 supervisors of the incorporating county.

392 (5) The board of supervisors of the incorporating
393 county shall, within sixty (60) days after the adoption of a
394 resolution or resolutions by the board of supervisors of adjoining
395 counties to enter lands into the district, enter an order on its
396 minutes acknowledging, affirming and adjudicating the
397 incorporation of the district.

398 (6) Any contiguous lands in an adjoining county, but
399 not amounting to twenty percent (20%) or more of the total land
400 area included in a district, may be served by a district created
401 under the provisions of Sections 19-5-151 through 19-5-207 if a
402 certificate of convenience and necessity to do so is issued by the
403 Mississippi Public Service Commission. Provided, however, the
404 provisions of Sections 19-5-189 and 19-5-191, Mississippi Code of
405 1972, shall not be applicable to any lands not a part of a
406 district.

407 **SECTION 18.** Section 19-5-165, Mississippi Code of 1972, is
408 brought forward as follows:



409 19-5-165. (1) Beginning on the date of the adoption of the
410 resolution creating any district, the district shall be a public
411 corporation in perpetuity under its corporate name and shall, in
412 that name, be a body politic and corporate with power of perpetual
413 succession.

414 (2) If the creation of the district is initiated in
415 accordance with Section 19-5-153(3), all assets and liabilities of
416 the nonprofit, nonshare corporation shall become the assets and
417 liabilities of the newly organized district without any further
418 meetings, voting, notice to creditors or actions by members of the
419 board beginning on the date of adoption of the resolution of the
420 board of supervisors creating the district.

421 **SECTION 19.** Section 19-5-167, Mississippi Code of 1972, is
422 brought forward as follows:

423 19-5-167. (1) Except as otherwise provided in this section,
424 the powers of each district shall be vested in and exercised by a
425 board of commissioners consisting of five (5) members to be
426 appointed by the board of supervisors. Upon their initial
427 appointment, one (1) of the commissioners shall be appointed for a
428 term of one (1) year; one (1) for a term of two (2) years; one (1)
429 for a term of three (3) years; one (1) for a term of four (4)
430 years; and one (1) for a term of five (5) years; thereafter, each
431 commissioner shall be appointed and shall hold office for a term
432 of five (5) years. Any vacancy occurring on a board of
433 commissioners shall be filled by the board of supervisors at any



434 regular meeting of the board of supervisors, and the board of
435 supervisors shall have the authority to fill all unexpired terms
436 of any commissioner or commissioners. Notwithstanding the
437 appointive authority herein granted to the board of supervisors,
438 its legal and actual responsibilities, authority and function,
439 subsequent to the creation of any district, shall be specifically
440 limited to the appointive function and responsibilities outlined
441 in Sections 19-5-179, 19-5-189 and 19-5-191, except that with fire
442 protection districts, the board of supervisors shall have
443 authority for dissolving, redefining and reconfiguring of such
444 districts as may be appropriate to ensure the most appropriate and
445 efficient fire protection coverage for the county's citizens. The
446 operation, management, abolition or dissolution of such district,
447 and all other matters in connection therewith, shall be vested
448 solely and only in the board of commissioners to the specific
449 exclusion of the board of supervisors, and the abolition,
450 dissolution or termination of any district shall be accomplished
451 only by unanimous resolution of the board of commissioners, except
452 that with fire protection districts, the board of supervisors
453 shall have authority for the dissolving, redefining and
454 reconfiguring of such districts when determined appropriate.
455 However, if any area within the boundaries of a fire protection
456 district created under Section 19-5-151 et seq., is annexed by a
457 municipality, a reduction of the boundaries of the district to
458 exclude such annexed area may be accomplished by the adoption of a



459 resolution by a majority vote of the board of commissioners of
460 that fire protection district. The county board of supervisors
461 which has a fire protection district created under Section
462 19-5-151 et seq., may dissolve, redefine and reconfigure such
463 district and, under Section 19-5-215 et seq., may create a fire
464 protection grading district consisting of the same boundaries as
465 the previously existing fire protection district or having amended
466 boundaries as determined appropriate by the board of supervisors.
467 Petition and election requirements of Sections 19-5-217 through
468 19-5-227 shall not apply where the board of supervisors dissolves
469 a fire protection district and creates a fire protection grading
470 district under this section. Except as otherwise provided herein,
471 such board of supervisors or commissioners shall have no power,
472 jurisdiction or authority to abolish, dissolve or terminate any
473 district while the district has any outstanding indebtedness of
474 any kind or character, unless arrangements are made for the
475 assumption of any outstanding indebtedness by the subsequent
476 district or by the county. If a fire protection district is
477 dissolved in accordance with this subsection, the board of
478 supervisors may continue to levy the same millage as was being
479 levied within the boundaries of the previous fire protection
480 district before its dissolution provided that a fire protection
481 grading district is created, in accordance with Section 19-5-215
482 et seq.



483 (2) The board of supervisors of the incorporating county may
484 consolidate such fire protection districts for administrative
485 purposes. The board of supervisors shall conduct a public hearing
486 to determine the public's interest. Following such a hearing, the
487 board may create a consolidated commission consisting of the
488 participating districts for administrative purposes. Such
489 districts then shall dissolve their respective boards of
490 commissioners, transferring all records to the consolidated board
491 of commissioners. A consolidated board of commissioners
492 consisting of not less than five (5) members shall be appointed
493 with equal representation from each participating district. Any
494 commissioners appointed to a consolidated fire protection district
495 commission must comply with eligibility requirements as authorized
496 in Section 19-5-171. In the event that a consolidated fire
497 protection district commission consists of an even number of
498 members, the chairman elected as authorized by Section 19-5-169
499 shall vote only in the event of a tie. General powers and duties
500 of commissioners and commissions and other related matters as
501 defined in Sections 19-5-151 through 19-5-207 shall apply to the
502 entire area contained in the consolidating fire protection
503 districts as described in the resolutions incorporating the fire
504 protection districts as well as to subsequent annexations.

505 (3) If the creation of the district is initiated in
506 accordance with Section 19-5-153(3), the powers of the district



507 shall be vested in and exercised by a board of commissioners
508 selected in the following manner:

509 (a) Upon creation of the district, the board of
510 directors of the former nonprofit, nonshare corporation shall
511 serve as the board of commissioners of the newly created water
512 district for a period not to exceed sixty (60) days. The initial
513 commissioners shall be subject to the requirements of Section
514 19-5-171, except the requirement for executing a bond. If an
515 initial commissioner fails to meet a requirement of Section
516 19-5-171 as provided in this section, the board of supervisors
517 shall appoint a member to fill that vacancy on the board of
518 commissioners.

519 (b) In the resolution creating a district initiated in
520 accordance with Section 19-5-153(3), the board of supervisors
521 shall direct the existing board of directors of the rural water
522 association to create within the district five (5) posts from
523 which commissioners shall be elected. The board of supervisors
524 shall designate the positions to be elected from each post as Post
525 1, Post 2, Post 3, Post 4 and Post 5. Post 5 shall be an at-large
526 post composed of the entire district. Within sixty (60) days
527 following creation of the district, the board of supervisors shall
528 call an election. Such election shall be held and conducted by
529 the election commissioners in accordance with the general laws
530 governing elections. The election commissioners shall determine
531 which of the qualified electors of the county reside within the



532 district and only those electors shall be entitled to vote in the
533 election. Notice of the election setting forth the time, place or
534 places and the purpose of the election shall be published by the
535 clerk of the board of supervisors in the manner provided in
536 Section 19-5-155.

537 The initial elected commissioners shall be elected to a term
538 of office expiring on December 31 of the year in which the next
539 succeeding general election for statewide officials is held.
540 After the initial term of office, commissioners shall be elected
541 to four-year terms. Vacancies shall be filled by the procedure
542 set forth in Section 23-15-839.

543 (4) For any water and sewer district located within the
544 corporate limits of a municipality that was incorporated on or
545 after January 2012, the powers of the district shall be vested in
546 and exercised by a board of commissioners consisting of five (5)
547 members, each to be appointed by the governing authority of such
548 municipality, one (1) member to be appointed from each municipal
549 ward in the city. Each commissioner shall be appointed and shall
550 hold office for a term of five (5) years. Any vacancy occurring
551 on the board of commissioners shall be filled by the governing
552 authority of the municipality at any regular meeting.
553 Appointments to fill vacancies in unexpired terms of office shall
554 be for the remaining unexpired term of office for such position.

555 **SECTION 20.** Section 19-5-169, Mississippi Code of 1972, is
556 brought forward as follows:



557 19-5-169. The board of commissioners shall organize by
558 electing one of its members as chairman and another as
559 vice-chairman. It shall be the duty of the chairman to preside at
560 all meetings of the board and to act as the chief executive
561 officer of the board and of the district. The vice-chairman shall
562 act in the absence or disability of the chairman. The board also
563 shall elect and fix the compensation of a secretary-treasurer who
564 may or may not be a member of the board. It shall be the duty of
565 the secretary-treasurer to keep all minutes and records of the
566 board and to safely keep all funds of the district. The
567 secretary-treasurer shall be required to execute a bond, payable
568 to the district, in a sum and with such security as shall be fixed
569 and approved by the board of commissioners. The terms of all
570 officers of the board shall be for one year from and after the
571 date of election, and shall run until their respective successors
572 are appointed or elected and qualified.

573 Each board of commissioners shall adopt an official seal with
574 which to attest the official acts and records of the board and
575 district.

576 **SECTION 21.** Section 19-5-171, Mississippi Code of 1972, is
577 brought forward as follows:

578 19-5-171. (1) Every resident citizen of the county in which
579 is located any district created under Sections 19-5-151 through
580 19-5-207, of good reputation, being the owner of land or the
581 conductor of a business situated within the district and being



582 over twenty-five (25) years of age and of sound mind and judgment,
583 shall be eligible to hold the office of commissioner.

584 (2) Except as provided in Section 19-5-164(3), each person
585 appointed or elected as a commissioner, before entering upon the
586 discharge of the duties of the person's office, shall be required
587 to execute a bond payable to the State of Mississippi in the penal
588 sum of not less than Fifty Thousand Dollars (\$50,000.00)
589 conditioned that the person will faithfully discharge the duties
590 of the office. Each bond shall be approved by the clerk of the
591 board of supervisors and filed with the clerk.

592 (3) Each commissioner shall take and subscribe to an oath of
593 office prescribed in Section 268, Mississippi Constitution of
594 1890, before the clerk of the board of supervisors that the person
595 will faithfully discharge the duties of the office of
596 commissioner, which oath shall also be filed with the clerk and
597 preserved with the official bond.

598 (4) Except as provided in subsection (5), the commissioners
599 so appointed or elected and qualified shall be compensated for
600 their services for each meeting of the board of commissioners
601 attended, either regular or special, at a rate to be fixed by the
602 board of supervisors, not to exceed the rate established in
603 Section 25-3-69 for officers of state boards, commissions and
604 agencies, and shall be reimbursed for all expenses necessarily
605 incurred in the discharge of their official duties in accordance
606 with Section 25-3-41. However, in no one (1) calendar year shall



607 any commissioner be compensated for more than twenty-four (24)
608 meetings.

609 (5) (a) The commissioners of the Hancock County Water and
610 Sewer District shall be compensated for their services at a rate
611 up to Eighty-four Dollars (\$84.00) per day for each meeting of the
612 board of commissioners attended, either regular or special, and
613 shall be reimbursed for all expenses necessarily incurred in the
614 discharge of their official duties in accordance with Section
615 25-3-41.

616 (b) The commissioners of the Kiln Utility and Fire
617 District of Hancock County shall be compensated for their services
618 at a rate up to Eighty-four Dollars (\$84.00) per day for each
619 meeting of the board of commissioners attended, either regular or
620 special, and shall be reimbursed for all expenses necessarily
621 incurred in the discharge of their official duties in accordance
622 with Section 25-3-41.

623 (c) The commissioners of the Pearlinton Water and
624 Sewer District of Hancock County shall be compensated for their
625 services at a rate up to Eighty-four Dollars (\$84.00) per day for
626 each meeting of the board of commissioners attended, either
627 regular or special, and shall be reimbursed for all expenses
628 necessarily incurred in the discharge of their official duties in
629 accordance with Section 25-3-41.

630 (d) The commissioners of the Diamondhead Water and
631 Sewer District of Hancock County shall be compensated for their



632 services at a rate up to the Eighty-four Dollars (\$84.00) per day
633 for each meeting of the board of commissioners attended, either
634 regular or special, and shall be reimbursed for all expenses
635 necessarily incurred in the discharge of their official duties in
636 accordance with Section 25-3-41.

637 (e) The commissioners of the Hancock County Solid Waste
638 Authority shall be compensated for their services at a rate up to
639 the Eighty-four Dollars (\$84.00) per day for each meeting of the
640 board of commissioners attended, either regular or special, and
641 shall be reimbursed for all expenses necessarily incurred in the
642 discharge of their official duties in accordance with Section
643 25-3-41.

644 (f) The commissioners of the Standard Dedeaux Water
645 District shall be compensated for their services at a rate up to
646 the Eighty-four Dollars (\$84.00) per day for each meeting of the
647 board of commissioners attended, either regular or special, and
648 shall be reimbursed for all expenses necessarily incurred in the
649 discharge of their official duties in accordance with Section
650 25-3-41.

651 **SECTION 22.** Section 19-5-173, Mississippi Code of 1972, is
652 brought forward as follows:

653 19-5-173. The board of commissioners shall have the power to
654 make regulations to secure the general health of those residing in
655 the district; to prevent, remove and abate nuisances; to regulate
656 or prohibit the construction of privy-vaults and cesspools, and to



657 regulate or suppress those already constructed; and to compel and
658 regulate the connection of all property with sewers.

659 **SECTION 23.** Section 19-5-175, Mississippi Code of 1972, is
660 brought forward as follows:

661 19-5-175. Districts created under the provisions of Sections
662 19-5-151 through 19-5-207 shall have the powers enumerated in the
663 resolution of the board of supervisors creating such districts but
664 shall be limited to the conducting and operating of a water supply
665 system, a sewer system, a garbage and waste collection and
666 disposal system, a fire protection system, a combined water and
667 fire protection system, a combined water and sewer system, a
668 combined water and garbage and waste collection and disposal
669 system, or a combined water, sewer, garbage and waste collection
670 and disposal and fire protection system; and to carry out such
671 purpose or purposes, such districts shall have the power and
672 authority to acquire, construct, reconstruct, improve, better,
673 extend, consolidate, maintain and operate such system or systems,
674 and to contract with any municipality, person, firm or corporation
675 for such services and for a supply and distribution of water, for
676 collection, transportation, treatment and/or disposal of sewage
677 and for services required incident to the operation and
678 maintenance of such systems. As long as any such district
679 continues to furnish any of the services which it was authorized
680 to furnish in and by the resolution by which it was created, it
681 shall be the sole public corporation empowered to furnish such



682 services within such district. However, if the board of
683 commissioners of such district and the board of supervisors
684 unanimously agree, the county may contract directly with any fire
685 protection services provider, in which case the board of
686 supervisors may distribute directly to the fire protection
687 services provider any or all of the funds that otherwise would be
688 distributed to the fire protection district.

689 Any district created pursuant to the provisions of Sections
690 19-5-151 through 19-5-207 shall be vested with all the powers
691 necessary and requisite for the accomplishment of the purpose for
692 which such district is created. No enumeration of powers herein
693 shall be construed to impair or limit any general grant of power
694 herein contained nor to limit any such grant to a power or powers
695 of the same class or classes as those enumerated. Such districts
696 are empowered to do all acts necessary, proper or convenient in
697 the exercise of the powers granted under such sections.

698 **SECTION 24.** Section 19-5-177, Mississippi Code of 1972, is
699 brought forward as follows:

700 19-5-177. (1) Any district created under Sections 19-5-151
701 through 19-5-207, acting by and through the board of commissioners
702 of such district as its governing authority, shall have the
703 following, among other, powers:

704 (a) To sue and be sued;

705 (b) To acquire by purchase, gift, devise and lease or
706 any other mode of acquisition, other than by eminent domain, hold



707 and dispose of real and personal property of every kind within or
708 without the district;

709 (c) To make and enter into contracts, conveyances,
710 mortgages, deeds of trust, bonds, leases or contracts for
711 financial advisory services;

712 (d) To incur debts, to borrow money, to issue
713 negotiable bonds, and to provide for the rights of the holders
714 thereof;

715 (e) To fix, maintain, collect and revise rates and
716 charges for services rendered by or through the facilities of such
717 district, which rates and charges shall not be subject to review
718 or regulation by the Mississippi Public Service Commission except
719 in those instances where a city operating similar services would
720 be subject to regulation and review; however, the district may
721 furnish services, including connection to the facilities of the
722 district, free of charge to the county or any agency or department
723 of the county and to volunteer fire departments located within the
724 service area of the district. The district shall obtain a
725 certificate of convenience and necessity from the Mississippi
726 Public Service Commission for operating of water and/or sewer
727 systems. Notwithstanding the provisions of this paragraph, if the
728 board of supervisors of a county has levied a special tax for a
729 fire protection district as authorized under Section 19-5-189(2)
730 and such district has volunteer firefighters, then the fire



731 protection district shall not fix, maintain or collect rates and
732 charges for services rendered;

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

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

738 (h) To use any right-of-way, public right-of-way,
739 easement, or other similar property or property rights necessary
740 or convenient in connection with the acquisition, improvement,
741 operation or maintenance of the facilities of such district held
742 by the state or any political subdivision thereof; however, the
743 governing body of such political subdivision shall consent to such
744 use;

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

749 (j) To acquire by purchase any existing works and
750 facilities providing services for which it was created, and any
751 lands, rights, easements, franchises and other property, real and
752 personal necessary to the completion and operation of such system
753 upon such terms and conditions as may be agreed upon, and if
754 necessary as part of the purchase price to assume the payment of
755 outstanding notes, bonds or other obligations upon such system;



756 (k) To extend its services to areas beyond but within
757 one (1) mile of the boundaries of such district; however, no such
758 extension shall be made to areas already occupied by another
759 corporate agency rendering the same service so long as such
760 corporate agency desires to continue to serve such areas. Areas
761 outside of the district desiring to be served which are beyond the
762 one (1) mile limit must be brought into the district by annexation
763 proceedings;

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

767 (m) To borrow funds for interim financing subject to
768 receipt of funds as outlined in Section 19-5-181;

769 (n) To provide group life insurance coverage for all or
770 specified groups of employees of the district and group
771 hospitalization benefits for those employees and their dependents,
772 and to pay the total cost of these benefits. For purposes of this
773 paragraph, the term "employees" does not include any person who is
774 a commissioner of a district created under Sections 19-5-151
775 through 19-5-207, and such commissioners are not eligible to
776 receive any insurance coverage or benefits made available to
777 district employees under this paragraph.

778 (2) Any district which is incorporated under Sections
779 19-5-151 through 19-5-207 to provide sewer services may install or
780 provide for the installation of sewage holding tanks at



781 residential properties within the district, if funding for
782 municipal or community sewers has been awarded to the district.
783 The district shall maintain or provide for the maintenance of the
784 sewage holding tank systems. The district may assess and collect
785 from each resident using a sewage holding tank a fee covering the
786 costs of providing the services authorized under this section.
787 When municipal or community sewers are available and ready for
788 use, residences with sewage holding tanks shall be connected to
789 the sewer system.

790 **SECTION 25.** Section 19-5-179, Mississippi Code of 1972, is
791 brought forward as follows:

792 19-5-179. The board of supervisors of such county may, upon
793 petition by the board of commissioners of the district, exercise
794 the power of eminent domain on behalf of the district wherever and
795 whenever public necessity and convenience so requires.

796 **SECTION 26.** Section 19-5-181, Mississippi Code of 1972, is
797 brought forward as follows:

798 19-5-181. (1) Any such district shall have the power to
799 provide funds for the purpose of constructing, acquiring,
800 reconstructing, improving, bettering or extending the facilities
801 of such district or for the purpose of buying, leasing, or
802 otherwise acquiring the assets and facilities of any nonprofit
803 corporation organized pursuant to the provisions of Sections
804 79-11-101 through 79-11-399, or any other utility district by the
805 issuance of revenue bonds. Such bonds shall be payable solely and



806 only from the revenues of such facilities, and such revenues may
807 be pledged from a portion of the service area of the district to
808 the support of debt service for a specific series or issue of
809 bonds if such apportionment is economically feasible.

810 (2) Any such district shall have the power to provide funds,
811 in addition to or in conjunction with the funds authorized in
812 subsection (1) above, for water supply or pollution abatement
813 projects by issuing special improvement pollution abatement bonds,
814 special improvement water bonds, or combinations of special
815 improvement water and sewer bonds, if the resolution creating the
816 district authorized the board of supervisors to make assessments
817 against benefited properties as outlined in Section 19-5-191. Such
818 bonds shall be payable solely and only from charges assessed to
819 benefited properties as outlined in said Section 19-5-191.

820 (3) If the board of supervisors of the county should levy a
821 special tax, as provided in Section 19-5-189, and consent to the
822 pledge of any part thereof, then that part of such tax levy may be
823 pledged in addition to the revenues of such facilities to the
824 payment of such bonds, and upon the pledge thereof such part of
825 said levy so pledged shall not be reduced while such bonds are
826 outstanding and unpaid. If the board of supervisors of the county
827 should provide for special improvement bonds as outlined in
828 Section 19-5-191, the funds received from the charges assessed to
829 the properties being benefited shall be pledged, separately or in
830 conjunction with the revenues and the avails of taxes described



831 above, for payment of such bonds, and such assessments shall not
832 be reduced while such bonds are outstanding and unpaid.

833 **SECTION 27.** Section 19-5-183, Mississippi Code of 1972, is
834 brought forward as follows:

835 19-5-183. (1) The board of commissioners of any district
836 created pursuant to Sections 19-5-151 through 19-5-207 may issue
837 bonds of such district by resolution spread upon the minutes of
838 such board. Bonds may be issued from time to time without an
839 election being held upon the question of their issuance unless the
840 board of commissioners of the district is presented with a
841 petition for an election upon the question of issuance signed by
842 twenty percent (20%) or one hundred fifty (150), whichever is the
843 lesser, of the qualified electors residing within the district.
844 The resolution authorizing any issue of bonds other than the
845 initial issue shall be published in a manner similar to the
846 publication of the resolution, as outlined in Section 19-5-157. If
847 an election is required, it shall be held in substantial accord
848 with the election outlined in Section 19-5-157. The cost of this
849 election shall be borne by the district.

850 (2) All bonds shall be lithographed or engraved and printed
851 in two (2) or more colors to prevent counterfeiting. They shall
852 be in denominations of not less than One Thousand Dollars
853 (\$1,000.00) nor more than Five Thousand Dollars (\$5,000.00), and
854 may be registered as issued, and shall be numbered in a regular
855 series from one (1) upward. Each such bond shall specify on its



856 face the purpose for which it was issued, the total amount
857 authorized to be issued, the interest on the bond, that it is
858 payable to bearer and that the interest to accrue thereon is
859 evidenced by proper coupons attached thereto.

860 (3) Such bonds shall contain such covenants and provisions;
861 shall be executed; shall be in such form, format, type,
862 denomination or denominations; shall be payable as to principal
863 and interest, at such place or places; and shall mature at such
864 time or times, all as shall be determined by such board of
865 commissioners and set forth in the resolution pursuant to which
866 such bonds shall be issued. The date of maturity of such bonds
867 shall not exceed forty (40) years from the date of the bond,
868 except that on special improvement pollution abatement bonds,
869 special improvement water bonds, or special improvement water and
870 sewer bonds the date of maturity shall not exceed twenty-five (25)
871 years from their date.

872 (4) All bonds shall bear interest at such rate or rates not
873 to exceed a greater net interest cost to maturity than that
874 allowed in Section 75-17-103, no bond shall bear more than one (1)
875 rate of interest; each bond shall bear interest from its date to
876 its stated maturity date at the interest rate specified in the
877 bid; all bonds of the same maturity shall bear the same rate of
878 interest. All interest accruing on such bonds so issued shall be
879 payable semiannually, or annually, except that the first interest
880 coupon attached to any such bonds may be for any period not



881 exceeding one (1) year. No interest payment shall be evidenced by
882 more than one (1) coupon and supplemental coupons, cancelled
883 coupons and zero interest coupons will not be permitted; no
884 interest coupon shall vary more than twenty-five percent (25%) in
885 interest rate from any other interest coupon in the same bond
886 issue; and the interest rate on any one (1) interest coupon shall
887 not exceed that allowed in Section 75-17-103.

888 (5) Such bonds shall be signed by the chairman and
889 secretary-treasurer of the commission with the seal of the
890 commission affixed thereto; however, the coupons may bear only the
891 facsimile signatures of such chairman and secretary-treasurer.

892 (6) Any provisions of the general laws to the contrary
893 notwithstanding, any bonds and interest coupons issued pursuant to
894 the authority of Sections 19-5-151 through 19-5-207 shall be
895 securities within the meaning of Article 8 of the Uniform
896 Commercial Code, being Sections 75-8-101 et seq., Mississippi Code
897 of 1972.

898 (7) Notwithstanding the foregoing provisions of this
899 section, bonds referred to hereinabove may be issued pursuant to
900 the supplemental powers and authorizations conferred by the
901 provisions of the Registered Bond Act, being Sections 31-21-1
902 through 31-21-7.

903 **SECTION 28.** Section 19-5-185, Mississippi Code of 1972, is
904 brought forward as follows:



905 19-5-185. The bonds issued under Sections 19-5-151 through
906 19-5-207 shall be sold upon sealed bids in the manner provided for
907 in Section 31-19-25, Mississippi Code of 1972, in conformity with
908 the provisions of Sections 19-5-151 through 19-5-207; however,
909 bonds may be sold to the United States of America or an agency or
910 instrumentality thereof at private sale.

911 Each interest rate specified in any bid must be in a multiple
912 of one-tenth of one percent (1/10 of 1%) or in multiples of
913 one-eighth of one percent (1/8 of 1%), and a zero rate of interest
914 cannot be named. Any premium must be paid in bank funds as a part
915 of the purchase price, and bids shall not contemplate the
916 cancellation of any interest coupon or the waiver of interest or
917 other concession by the bidder as a substitute for bank funds.

918 Any bonds issued under the provisions of Sections 19-5-151
919 through 19-5-207 may be refunded in like manner as revenue bonds
920 of municipalities shall be refunded.

921 Any bonds issued under the provisions of Sections 19-5-151
922 through 19-5-207 shall be submitted to validation under the
923 provisions of Sections 31-13-1 through 31-13-11, inclusive,
924 Mississippi Code of 1972.

925 **SECTION 29.** Section 19-5-187, Mississippi Code of 1972, is
926 brought forward as follows:

927 19-5-187. There is hereby created a statutory lien to the
928 nature of a mortgage lien upon any system or systems acquired or
929 constructed in accordance with Sections 19-5-151 through 19-5-207,



930 including all extensions and improvements thereof or combinations
931 thereof subsequently made, which lien shall be in favor of the
932 holder or holders of any bonds issued pursuant to said sections,
933 and all such property shall remain subject to such statutory lien
934 until the payment in full of the principal of and interest on said
935 bonds. Any holder of said bonds or any of the coupons
936 representing interest thereon may, either at law or in equity, by
937 suit, action, mandamus or other proceedings, in any court of
938 competent jurisdiction, protect and enforce such statutory lien
939 and compel the performance of all duties required by said
940 sections, including the making and collection of sufficient rates
941 for the service or services, the proper accounting thereof, and
942 the performance of any duties required by covenants with the
943 holders of any bonds issued in accordance herewith.

944 If any default is made in the payment of the principal of or
945 interest on such bonds, any court having jurisdiction of the
946 action may appoint a receiver to administer said district and said
947 system or systems, with power to charge and collect rates
948 sufficient to provide for the payment of all bonds and obligations
949 outstanding against said system or systems, and for payment of
950 operating expenses, and to apply the income and revenues thereof
951 in conformity with the provisions of Sections 19-5-151 through
952 19-5-207 and any covenants with bondholders.

953 **SECTION 30.** Section 19-5-189, Mississippi Code of 1972, is
954 brought forward as follows:



955 19-5-189. (1) (a) Except as otherwise provided in
956 subsection (2) of this section for levies for fire protection
957 purposes and subsection (3) of this section for certain districts
958 providing water service, the board of supervisors of the county in
959 which any such district exists may, according to the terms of the
960 resolution, levy a special tax, not to exceed four (4) mills
961 annually, on all of the taxable real property in such district,
962 the avails of which shall be paid over to the board of
963 commissioners of the district to be used either for the operation,
964 support and maintenance of the district or for the retirement of
965 any bonds issued by the district, or for both.

966 (b) The proceeds derived from two (2) mills of the levy
967 authorized herein shall be included in the ten percent (10%)
968 increase limitation under Section 27-39-321, and the proceeds
969 derived from any additional millage levied under this subsection
970 in excess of two (2) mills shall be excluded from such limitation
971 for the first year of such additional levy and shall be included
972 within such limitation in any year thereafter.

973 (2) (a) In respect to fire protection purposes, the board
974 of supervisors of the county in which any such district exists on
975 July 1, 1987, may levy a special tax annually, not to exceed the
976 tax levied for such purposes for the 1987 fiscal year on all of
977 the taxable real property in such district, the avails of which
978 shall be paid over to the board of commissioners of the district
979 to be used either for the operation, support and maintenance of



980 the fire protection district or for the retirement of any bonds
981 issued by the district for fire protection purposes, or for both.
982 Any such district for which no taxes have been levied for the 1987
983 fiscal year may be treated as having been created after July 1,
984 1987, for the purposes of this subsection.

985 (b) In respect to fire protection purposes, the board
986 of supervisors of the county in which any such district is created
987 after July 1, 1987, may, according to the terms of the resolution
988 of intent to incorporate the district, levy a special tax not to
989 exceed two (2) mills annually on all of the taxable real property
990 in such district, the avails of which shall be paid over to the
991 board of commissioners of the district to be used either for the
992 operation, support and maintenance of the fire protection district
993 or for the retirement of any bonds issued by the district for fire
994 protection purposes, or for both; however, the board of
995 supervisors may increase the tax levy under this subsection as
996 provided for in paragraph (c) of this subsection.

997 (c) The tax levy under this subsection may be increased
998 only when the board of supervisors has determined the need for
999 additional revenues. Prior to levying a tax increase under this
1000 paragraph, the board of supervisors shall adopt a resolution
1001 declaring its intention to levy the tax. The resolution shall
1002 describe the amount of the increase in the tax levy and the
1003 purposes for which the proceeds of the additional tax will be
1004 used. The board of supervisors shall have a copy of the



1005 resolution published once a week for three (3) consecutive weeks
1006 in at least one (1) newspaper published in the county and having a
1007 general circulation therein. If no newspaper is published in the
1008 county, then notice shall be given by publishing the resolution
1009 for the required time in some newspaper having a general
1010 circulation in the county. A copy of the resolution shall also be
1011 posted at three (3) public places in the county for a period of at
1012 least twenty-one (21) days during the time of its publication in a
1013 newspaper. If more than twenty percent (20%) of the qualified
1014 electors of the district shall file with the clerk of the board of
1015 supervisors, within twenty-one (21) days after adoption of the
1016 resolution of intent to increase the tax levy, a petition
1017 requesting an election on the question of the increase in tax
1018 levy, then and in that event such increase shall not be made
1019 unless authorized by a majority of the votes cast at an election
1020 to be called and held for that purpose within the district.
1021 Notice of such election shall be given, the election shall be held
1022 and the result thereof determined, as far as is practicable, in
1023 the same manner as other elections are held in the county. If an
1024 election results in favor of the increase in the tax levy or if no
1025 election is required, the board of supervisors may increase the
1026 tax levy. The board of supervisors, in its discretion, may call
1027 an election on such question, in which event it shall not be
1028 necessary to publish the resolution declaring its intention to
1029 have the tax imposed.



1030 (d) Notwithstanding any provisions of this subsection
1031 to the contrary, in any county bordering on the Gulf of Mexico and
1032 the State of Louisiana, the board of supervisors may levy not to
1033 exceed four (4) mills annually on all the taxable real property
1034 within any fire protection district, the avails of which shall be
1035 paid over to the board of commissioners of the district to be used
1036 either for the operation, support and maintenance of the fire
1037 protection district or for the retirement of any bonds issued by
1038 the district for fire protection purposes, or for both. Prior to
1039 levying the tax under this paragraph, the board of supervisors
1040 shall adopt a resolution declaring its intention to levy the tax.
1041 The resolution shall describe the amount of the tax levy and the
1042 purposes for which the proceeds of the tax will be used. The
1043 board of supervisors shall have a copy of the resolution published
1044 once a week for three (3) consecutive weeks in at least one (1)
1045 newspaper published in the county and having a general circulation
1046 therein. If no newspaper is published in the county, then notice
1047 shall be given by publishing the resolution for the required time
1048 in some newspaper having a general circulation in the county. A
1049 copy of the resolution shall also be posted at three (3) public
1050 places in the county for a period of at least twenty-one (21) days
1051 during the time of its publication in a newspaper. If more than
1052 twenty percent (20%) of the qualified electors of the district
1053 shall file with the clerk of the board of supervisors, within
1054 twenty-one (21) days after adoption of the resolution of intent to



1055 levy the tax, a petition requesting an election on the question of
1056 the levy of such tax, then and in that event such tax levy shall
1057 not be made unless authorized by a majority of the votes cast at
1058 an election to be called and held for that purpose within the
1059 district. Notice of such election shall be given, the election
1060 shall be held and the result thereof determined, as far as is
1061 practicable, in the same manner as other elections are held in the
1062 county. If an election results in favor of the tax levy or if no
1063 election is required, the board of supervisors may levy such tax.
1064 The board of supervisors, in its discretion, may call an election
1065 on such question, in which event it shall not be necessary to
1066 publish the resolution declaring its intention to have the tax
1067 imposed.

1068 (e) Notwithstanding any provisions of this subsection
1069 to the contrary, in any county bordering on the Mississippi River
1070 in which legal gaming is conducted and in which U.S. Highway 61
1071 intersects with Highway 4, the board of supervisors may levy a
1072 special tax not to exceed five (5) mills annually on all the
1073 taxable real and personal property within any fire protection
1074 district, except for utilities as defined in Section 77-3-3(d) (i)
1075 and (iii), the avails of which shall be paid over to the board of
1076 commissioners of the district to be used either for the operation,
1077 support and maintenance of the fire protection district or for the
1078 retirement of any bonds issued by the district for fire protection
1079 purposes, or for both. Before levying the tax under this



1080 paragraph, the board of supervisors shall adopt a resolution
1081 declaring its intention to levy the tax. The resolution shall
1082 describe the amount of the tax levy and the purposes for which the
1083 proceeds of the tax will be used. The board of supervisors shall
1084 have a copy of the resolution published once a week for three (3)
1085 consecutive weeks in at least one (1) newspaper published in the
1086 county and having a general circulation therein. If no newspaper
1087 is published in the county, then notice shall be given by
1088 publishing the resolution for the required time in some newspaper
1089 having general circulation in the county. A copy of the
1090 resolution shall also be posted at three (3) public places in the
1091 county for a period of at least twenty-one (21) days during the
1092 time of its publication in a newspaper. If more than twenty
1093 percent (20%) of the qualified electors of the district shall file
1094 with the clerk of the board of supervisors, within twenty-one (21)
1095 days after adoption of the resolution of intent to levy the tax, a
1096 petition requesting an election of the questions of the levy of
1097 such tax, then and in that event such tax levy shall not be made
1098 unless authorized by a majority of the votes cast at an election
1099 to be called and held for that purpose within the district.
1100 Notice of such election shall be given, the election shall be held
1101 and the result thereof determined, as far as is practicable, in
1102 the same manner as other elections are held in the county. If an
1103 election results in favor of the tax levy or if no election is
1104 required, the board of supervisors may levy such tax. The board



1105 of supervisors, in its discretion, may call an election on such
1106 question, in which event it shall not be necessary to publish the
1107 resolution declaring its intention to have the tax imposed.

1108 (f) Any taxes levied under this subsection shall be
1109 excluded from the ten percent (10%) increase limitation under
1110 Section 27-39-321.

1111 (3) For any district authorized under Section 19-5-151(2),
1112 the board of supervisors shall not levy the special tax authorized
1113 in this section.

1114 **SECTION 31.** Section 19-5-191, Mississippi Code of 1972, is
1115 brought forward as follows:

1116 19-5-191. (a) Funds for debt service for special
1117 improvement pollution abatement bonds, special improvement water
1118 bonds, or special improvement water and sewer bonds issued in lieu
1119 of or in conjunction with revenue bonds and/or tax-supported bonds
1120 shall be provided by charges upon the properties benefited
1121 according to procedures set forth in this section.

1122 (b) So long as any special improvement bond authorized by
1123 Sections 19-5-151 through 19-5-207 shall remain outstanding, it
1124 shall be the duty of the board of supervisors, at the time annual
1125 county tax levies are made, to levy such assessments as are
1126 certified to them by the district as being due and payable at a
1127 stated time. It shall be the duty of the tax collector of the
1128 county in which the district lies to collect such charges and pay
1129 the funds collected to the board of commissioners of the district



1130 for payment to interest and principal and to the retirement of
1131 bonds issued by the district in accord with the maturities
1132 schedule pertaining thereto.

1133 (c) One of the following procedures may be utilized in
1134 providing funds as authorized by this section:

1135 (1) Funds for debt service may be provided by charges
1136 assessed against the property abutting upon the sewer, or abutting
1137 upon the railroad and/or utility right-of-way, street, road,
1138 highway, easement or alley in which such sewer mains or water
1139 mains are installed according to the frontage thereof.

1140 The board of commissioners of the district, after giving
1141 notice and hearing protests in the manner prescribed by Sections
1142 21-41-5 and 21-41-7, Mississippi Code of 1972, shall by resolution
1143 spread upon its minutes define the services to be offered and the
1144 entire area to be benefited by each improvement; each such
1145 improvement may be designated as a project, or all such
1146 improvements may be designated as one project. However, if forty
1147 percent (40%) of the property owners or the owners of more than
1148 forty percent (40%) of the front footage of the property involved
1149 and actually residing on property owned by them and included
1150 within that part of any street, avenue, etc., ordered to be
1151 specially improved, or otherwise actually occupying property owned
1152 by them and included within that area designated as a project,
1153 shall file a protest, then the improvement shall not be made and
1154 the assessment shall not be made.



1155 The resolution shall direct that the cost to be assessed
1156 against each lot or parcel of land shall be determined by dividing
1157 the entire assessable cost of the project by the total number of
1158 front feet fronting on the street, easement or other right-of-way
1159 in which all of the mains embraced within the project are
1160 installed and multiplying the quotient by the total number of
1161 front feet in any particular lot or parcel of land fronting on the
1162 street, easement or other right-of-way in which sewer mains or
1163 water mains are installed. The result thereof shall be delivered
1164 by governing authorities of the district to the county board of
1165 supervisors as the amount of special tax to be assessed against
1166 each lot or piece of ground for the owner's part of the total cost
1167 of the improvements.

1168 The resolution, at the discretion of the governing
1169 authorities of the district, may provide for the district to pay
1170 the assessment against any property abutting a sewer or water
1171 improvement, if the property whose assessment is being paid by the
1172 district is occupied by a contributor or consumer connected to the
1173 sewer or water system who is, or will be, paying service charges
1174 at the time the assessment roll maintained by the district is
1175 confirmed; provided, however, such payment shall not exceed an
1176 amount equal to that assessed against any one hundred twenty-five
1177 (125) feet of frontage of abutting property in a project.

1178 The resolution may, at the discretion of the governing
1179 authorities of the district, provide for the district to pay the



1180 assessment against any property abutting a section of sewer main
1181 or water main designated as necessary and essential to the overall
1182 operation of such system or systems; provided, however, no service
1183 shall be provided to any such abutting property until and unless
1184 all such payments made by the district are repaid to the district
1185 by the owners of such benefited property.

1186 (2) Funds for debt service may be provided by charges
1187 assessed against a lot or block in a recorded subdivision of land
1188 or by other appropriately designated parcel or tract of land in
1189 accord with the following procedure:

1190 The board of commissioners of the district, after giving
1191 notice and hearing protests in the manner prescribed by Sections
1192 21-41-5 and 21-41-7, Mississippi Code of 1972, shall by resolution
1193 spread upon its minutes define the services to be offered and the
1194 entire area to be benefited by each improvement; each such
1195 improvement may be designated as a project, or all such
1196 improvements may be designated as one (1) project. However, if
1197 forty percent (40%) of the property owners or the owners of more
1198 than forty percent (40%) of the front footage of the property
1199 involved and actually residing on property owned by them and
1200 included within that part of any street, avenue, etc., ordered to
1201 be specially improved, or otherwise actually occupying property
1202 owned by them and included within that area designated as a
1203 project, shall file a protest, then the improvement shall not be
1204 made and the assessment shall not be made.



1205 Charges shall be assessed in accord with the provisions of
1206 Sections 21-41-9 through 21-41-21, 21-41-25 to 21-41-39,
1207 Mississippi Code of 1972.

1208 The resolution providing for assessments under the provisions
1209 of subsection (c) (2) of this section, at the discretion of the
1210 governing authorities of the district, may provide for the
1211 district to pay the assessment against any lot or parcel of ground
1212 not exceeding one (1) acre in size, if such property is occupied
1213 by a contributor or consumer connected to the sewer or water
1214 system who is, or will be, paying service charges at the time the
1215 assessment roll maintained by the district is confirmed.

1216 The resolution providing for assessment of benefited
1217 properties under this procedure shall provide for appropriate
1218 payment to debt service accounts by property owners not included
1219 in the original assessment roll but benefited by facilities
1220 installed with funds provided by such assessments at, or prior to,
1221 the time at which a nonassessed but benefited property is actually
1222 served by said facilities.

1223 **SECTION 32.** Section 19-5-193, Mississippi Code of 1972, is
1224 brought forward as follows:

1225 19-5-193. No holder or holders of any bonds issued pursuant
1226 to Sections 19-5-151 through 19-5-207 shall ever have the right to
1227 compel the levy of any tax to pay said bonds or the interest
1228 thereon except where the board of supervisors of the county has



1229 made a levy of a special tax and consented to the pledge thereof,
1230 all as is provided in Sections 19-5-181 and 19-5-189.

1231 **SECTION 33.** Section 19-5-195, Mississippi Code of 1972, is
1232 brought forward as follows:

1233 19-5-195. Except as provided in Section 19-5-177(1)(e), the
1234 board of commissioners of the district issuing bonds pursuant to
1235 Sections 19-5-151 through 19-5-207 shall prescribe and collect
1236 reasonable rates, fees, tolls or charges for the services,
1237 facilities and commodities of its system or systems; shall
1238 prescribe penalties for the nonpayment thereof; and shall revise
1239 such rates, fees, tolls or charges from time to time whenever
1240 necessary to insure the economic operation of such system or
1241 systems. The rates, fees, tolls or charges prescribed shall be,
1242 as nearly as possible, such as will always produce revenue at
1243 least sufficient to: (a) provide for all expenses of operation
1244 and maintenance of the system or systems, including reserves
1245 therefor, (b) pay when due all bonds and interest thereon for the
1246 payment of which such revenues are or shall have been pledged,
1247 charged or otherwise encumbered, including reserves therefor, and
1248 (c) provide funds for reasonable expansions, extensions and
1249 improvements of service.

1250 **SECTION 34.** Section 19-5-197, Mississippi Code of 1972, is
1251 brought forward as follows:

1252 19-5-197. The property and revenue of such district shall be
1253 exempt from all state, county and municipal taxation. Bonds



1254 issued pursuant to Sections 19-5-151 through 19-5-207 and the
1255 income therefrom shall be exempt from all state, county and
1256 municipal taxation, except inheritance, transfer and estate taxes,
1257 and it may be so stated on the face of said bonds.

1258 **SECTION 35.** Section 19-5-199, Mississippi Code of 1972, is
1259 brought forward as follows:

1260 19-5-199. All construction contracts by the district where
1261 the amount of the contract shall exceed Ten Thousand Dollars
1262 (\$10,000.00) shall, and construction contracts of less than Ten
1263 Thousand Dollars (\$10,000.00) may, be made upon at least three (3)
1264 weeks' public notice. Such notice shall be published once a week
1265 for at least three (3) consecutive weeks in at least one (1)
1266 newspaper published in such county or having general circulation
1267 therein. The first publication of such notice shall be made not
1268 less than twenty-one (21) days prior to the date fixed in such
1269 notice for the receipt of bids, and the last publication shall be
1270 made not more than seven (7) days prior to such date. The notice
1271 shall state the thing to be done and invite sealed proposals, to
1272 be filed with the secretary of the district, to do the work. In
1273 all such cases, before the notice shall be published, plans and
1274 specifications for the work shall be prepared by a registered
1275 professional engineer and shall be filed with the secretary of the
1276 district and there remain. The board of commissioners of the
1277 district shall award the contract to the lowest responsible bidder
1278 who will comply with the terms imposed by such commissioners and



1279 enter into bond with sufficient sureties to be approved by the
1280 commissioners in such penalty as shall be fixed by the
1281 commissioners; however, in no case shall such bond be less than
1282 the contract price, conditioned for the prompt, proper efficient
1283 performance of the contract. Contracts of less than Ten Thousand
1284 Dollars (\$10,000.00) may be negotiated; however, the board of
1285 commissioners shall invite and receive written proposals for the
1286 work from at least three (3) contractors regularly engaged in the
1287 type of work involved.

1288 **SECTION 36.** Section 19-5-201, Mississippi Code of 1972, is
1289 brought forward as follows:

1290 19-5-201. Any area adjacent to any district created pursuant
1291 to Sections 19-5-151 through 19-5-207 and situated within the same
1292 county as the district, and not being situated within the
1293 corporate boundaries of any existing municipality, may be annexed
1294 to and become a part of such district by the same procedure
1295 prescribed in Sections 19-5-153 through 19-5-159 for the original
1296 creation of the district. All costs incident to the publication
1297 of notice and all other costs incident to the hearings, election
1298 and proceedings shall be paid by the district.

1299 The district shall have the exclusive right to provide any of
1300 the services for which it was created in the annexed territory;
1301 however, if any part of the annexed territory is then being served
1302 by another corporate agency with any such service, the district
1303 shall, at the option of the other corporate agency, either



1304 relinquish its prior right to serve the area occupied by the
1305 corporate agency or acquire by purchase the facilities of such
1306 corporate agency, together with its franchise rights to serve such
1307 area. If the annexation affects only a portion of the corporate
1308 agency's facility, the cash consideration for such purchase shall
1309 not be less than:

1310 (a) The present-day reproduction cost, new, of the
1311 facilities being acquired, less depreciation computed on a
1312 straight-line basis; plus

1313 (b) An amount equal to the cost of constructing any
1314 necessary facilities to reintegrate the system of the corporate
1315 agency outside the annexed area after detaching the portion to be
1316 acquired by the district; plus

1317 (c) An annual amount payable each year for a period of
1318 ten (10) years equal to the sum of twenty-five percent (25%) of
1319 the revenues received from sales to consumers within the annexed
1320 area during the last twelve (12) months.

1321 If the option is for the district to purchase, upon
1322 notification thereof, the district shall be obligated to buy and
1323 pay for, and the corporate agency shall be obligated to convey to
1324 the district, all its service facilities and franchise rights in
1325 the annexed area, free and clear of all mortgage liens and
1326 encumbrances for the aforesaid cash consideration.

1327 If the annexed territory affects all of the properties and
1328 facilities of such other corporate agency, then all of such



1329 property constituting the entire system or facility of the
1330 corporate agency shall be acquired by the district in accordance
1331 with such terms and conditions as may be agreed upon, and the
1332 district shall have the authority to assume the operation of such
1333 entire system or facility and to assume and become liable for the
1334 payment of any notes, bonds or other obligations that are
1335 outstanding against said system or facility and payable from the
1336 revenues therefrom.

1337 If the district is notified to relinquish its prior right to
1338 serve the annexed area, the district shall grant the corporate
1339 agency a franchise to serve within the annexed territory; however,
1340 the corporate agency shall be entitled to serve only such
1341 customers or locations within the annexed area as it served on the
1342 date that such annexation became effective.

1343 The annexed territory shall become liable for any existing
1344 indebtedness of the district and be subject to any taxes levied by
1345 the board of supervisors under Section 19-5-189 in payment of the
1346 district's indebtedness.

1347 **SECTION 37.** Section 19-5-203, Mississippi Code of 1972, is
1348 brought forward as follows:

1349 19-5-203. The board of commissioners of any district created
1350 pursuant to the provisions of Sections 19-5-151 through 19-5-207
1351 shall have the authority to enter into cooperative agreements with
1352 the state or federal government, or both; to obtain financial
1353 assistance in the form of loans or grants as may be available from



1354 the state or federal government, or both; and to execute and
1355 deliver at private sale notes or bonds as evidence of such
1356 indebtedness in the form and subject to the terms and conditions
1357 as may be imposed by the state or federal government, or both; and
1358 to pledge the income and revenues of the district, or the income
1359 and revenues from any part of the area embraced in the district,
1360 in payment thereof. It is the purpose and intention of this
1361 section to authorize districts to do any and all things necessary
1362 to secure the financial aid or cooperation of the state or federal
1363 government, or both, in the planning, construction, maintenance or
1364 operation of project facilities.

1365 **SECTION 38.** Section 19-5-204, Mississippi Code of 1972, is
1366 brought forward as follows:

1367 19-5-204. When any board of supervisors creates a district
1368 within three (3) miles of the corporate boundaries of any existing
1369 municipality, the municipality is empowered to require such
1370 district to construct and maintain all facilities, whether
1371 purchased or constructed, to standards commensurate with those of
1372 the adjoining municipality; provided, however, the governing
1373 authorities of the municipalities may specifically waive
1374 compliance with any or all of such requirements.

1375 **SECTION 39.** Section 19-5-205, Mississippi Code of 1972, is
1376 brought forward as follows:

1377 19-5-205. Sections 19-5-151 through 19-5-207, without
1378 reference to any other statute, shall be deemed to be full and



1379 complete authority for the creation of such districts and for the
1380 issuance of such bonds. No proceedings shall be required for the
1381 creation of such districts or for the issuance of such bonds other
1382 than those provided for and required herein. All the necessary
1383 powers to be exercised by the board of supervisors of such county
1384 and by the board of commissioners of any such district, in order
1385 to carry out the provisions of such sections, are hereby
1386 conferred.

1387 **SECTION 40.** Section 19-5-207, Mississippi Code of 1972, is
1388 brought forward as follows:

1389 19-5-207. Within ninety (90) days after the close of each
1390 fiscal year, the board of commissioners shall publish in a
1391 newspaper of general circulation in the county a sworn statement
1392 showing the financial condition of the district, the earnings for
1393 the fiscal year just ended, a statement of the water and sewer
1394 rates being charged, and a brief statement of the method used in
1395 arriving at such rates. Such statement shall also be filed with
1396 the board of supervisors creating the district.

1397 **SECTION 41.** Section 21-27-11, Mississippi Code of 1972, is
1398 brought forward as follows:

1399 21-27-11. Whenever used in Sections 21-27-11 through
1400 21-27-69:

1401 (a) The term "municipality" includes any incorporated
1402 city, town or village of the State of Mississippi, whether
1403 incorporated under a special charter or under the general laws of



1404 the State of Mississippi governing municipalities, and operating
1405 under any form of municipal government. However, for the purpose
1406 of establishing a motor vehicle transportation system for the
1407 transportation of passengers within the boundaries of the
1408 governmental unit or units concerned, and within three (3) miles
1409 thereof, the word "municipality" is defined to include counties
1410 and groups of municipalities and shall allow those governmental
1411 units to establish a commission as provided in Section 21-27-13
1412 and exercise the powers granted in Sections 21-27-11 through
1413 21-27-69. Each county or municipality joining together shall be
1414 allowed at least one (1) commissioner representing that governing
1415 authority. For the purpose of establishing a railroad
1416 transportation system for passengers and freight, the term
1417 "municipality" includes any county bordering the Mississippi River
1418 and in which Highways 49 and 61 intersect, and such county may
1419 exercise the powers granted in Sections 21-27-11 through 21-27-69;

1420 (b) The term "system" includes waterworks system, water
1421 supply system, sewage system, sewage disposal system, or any
1422 combination thereof, including any combined waterworks and sewage
1423 system, consisting of an existing waterworks system or water
1424 supply system or both, combined with an existing sewage system or
1425 sewage disposal system or both, or consisting of an existing
1426 waterworks system or water supply system or both, combined with a
1427 sewage system or sewage disposal system or both, to be acquired,
1428 (as defined herein), or consisting of an existing sewage system or



1429 sewage disposal system or both, combined with a waterworks system
1430 or water supply system or both, to be acquired, (as defined
1431 herein), gas producing system, gas generating system, gas
1432 transmission system or gas distribution system, or any one (1) or
1433 all thereof, electric generating, transmission, or distribution
1434 system, garbage disposal system, rubbish disposal system, and
1435 incinerators, and all parts and appurtenances thereof. The term
1436 "system" also includes a motor vehicle transportation system for
1437 the transportation of passengers within the city limits and within
1438 three (3) miles thereof. The term "system" also includes a
1439 railroad transportation system of any municipality located within
1440 a county bordering the Mississippi River and in which Highways 49
1441 and 61 intersect for the transportation of passengers and freight
1442 regardless of the amount of area outside the jurisdictional limits
1443 of such municipality for which the system provides service; the
1444 railroad transportation system may be located partially outside
1445 the boundaries of the county. The term "system" also includes a
1446 motor vehicle transportation system for the transportation of
1447 passengers of any municipality with a population of more than
1448 forty-five thousand (45,000) but less than forty-five thousand one
1449 hundred (45,100) according to the 1970 federal decennial census
1450 regardless of the amount of area outside the city limits of such
1451 municipality for which the system provides service. Wherever in
1452 Sections 21-27-11 through 21-27-69 any one or more of the systems
1453 authorized under this section are referred to, the same shall



1454 include motor vehicle transportation systems. The term "system"
1455 also includes any franchise held by the owner thereof and shall
1456 also include operations within the capabilities of any component
1457 facility within the system which reasonably utilize the public
1458 resources;

1459 (c) The term "improvement" includes repair, betterment,
1460 enlargement, extension and other improvements to a system;

1461 (d) The term "acquire" includes construct, purchase,
1462 gift, exercise of power of eminent domain and other methods by
1463 which a municipality may acquire a system;

1464 (e) The term "improve" includes repair, better,
1465 enlarge, extend and other methods of improving a system;

1466 (f) The term "ordinance" includes ordinance, resolution
1467 or other appropriate legislative enactment of the governing
1468 authorities of any municipality.

1469 **SECTION 42.** Section 21-27-13, Mississippi Code of 1972, is
1470 brought forward as follows:

1471 21-27-13. The governing authorities of any municipality
1472 which now owns and operates, or hereafter shall own and operate,
1473 any system or systems shall have the power and authority to create
1474 a commission to control, manage and operate such systems, or any
1475 one or more of them, which said commission shall consist of not
1476 less than three (3) nor more than five (5) commissioners, to be
1477 elected by the governing authorities of such municipality. In any
1478 municipality operating under the council-manager plan of



1479 government, such commissioners shall be selected by, and shall be
1480 under the control of, the mayor and councilmen of the
1481 municipality, and not the city or town manager. Such
1482 commissioners shall have the power, authority and duty to manage
1483 and control said system or systems and the supply of the
1484 facilities and services thereof, both within and without the
1485 limits of the municipality. Such commissioners shall be qualified
1486 electors of the municipality and shall not hold any other
1487 municipal office for honor or profit. Such commissioners shall
1488 receive such compensation as may be specified and provided by the
1489 governing authorities of said municipality; provided, however,
1490 that any commission formed for the purpose of establishing a motor
1491 vehicle transportation system for the transportation of passengers
1492 within the boundaries of the governmental unit or units concerned,
1493 and within three (3) miles thereof, may pay its commissioners from
1494 the operating budget of such commission per diem compensation in
1495 the amount provided by Section 25-3-69 for each day or fraction of
1496 a day engaged in attendance of meetings of the commission or
1497 engaged in other official duties of the commission, not to exceed
1498 forty-five (45) days in any one (1) year. The governing
1499 authorities of the municipality are hereby authorized and
1500 empowered to require such commissioners to furnish bonds for the
1501 faithful performance of their duties, in the amount as may be
1502 deemed proper, and to pay the premiums thereon from the municipal
1503 treasury or the available funds of the said system or systems.



1504 Where there are three (3) members of such commission, the term of
1505 office shall be for a period of three (3) years, and where there
1506 are four (4) members the term of office shall be for a period of
1507 four (4) years, and where there are five (5) members the term of
1508 office shall be for a period of five (5) years. However, in
1509 making the first appointment of commissioners, one (1) shall be
1510 appointed for a term of one (1) year, one (1) for a term of two
1511 (2) years, one (1) for a term of three (3) years and, where
1512 necessary, one (1) for a term of four (4) years, and one (1) for a
1513 term of five (5) years, so that thereafter the term of office of
1514 one (1) commissioner shall expire each year. Where the governing
1515 authorities of the municipality do not elect to create a
1516 commission as herein provided, then any system or systems owned
1517 and operated by the municipality shall be controlled and managed
1518 by the governing authorities of the municipality, who shall have
1519 all the power and authority conferred upon such commission.

1520 **SECTION 43.** Section 21-27-15, Mississippi Code of 1972, is
1521 brought forward as follows:

1522 21-27-15. The governing authorities of such municipality
1523 shall have the power to remove any member of said commission for
1524 inefficiency or incompetency or any other cause, but the governing
1525 authority of any municipality which has created a commission under
1526 the terms of Section 21-27-13, shall not have authority to abolish
1527 the commission, or to diminish its powers, except by a vote of a
1528 majority of the qualified electors of such municipality at a



1529 special election, duly called and held for that purpose. However,
1530 nothing herein shall limit, alter, impair or in any way change the
1531 procedure prescribed for the sale or lease of a public utility
1532 system under Section 21-27-33.

1533 **SECTION 44.** Section 21-27-17, Mississippi Code of 1972, is
1534 brought forward as follows:

1535 21-27-17. The commission provided for by Section 21-27-13 is
1536 authorized to make such bylaws for the holding and conduct of its
1537 meetings and such other regulations as it may deem necessary for
1538 the safe, economic and efficient management and protection of the
1539 system or systems, and such bylaws and regulations shall have the
1540 same validity as an ordinance duly passed by the governing
1541 authorities of any municipality.

1542 It is authorized to elect such officers and appoint such
1543 employees as may be necessary to operate the system or systems
1544 efficiently, and it shall have the entire control and management
1545 of such system or systems, together with all property connected or
1546 appertaining in any manner to such system or systems. The
1547 commission shall have the authority to employ a superintendent or
1548 manager of the systems, who shall have actual charge of the
1549 management and operation thereof and of the enforcement and
1550 execution of all the rules, regulations, programs, plans and
1551 decisions made and adopted by the commission in making purchases
1552 for materials and supplies to be used in the operation of the
1553 systems. In addition to any other purchasing authority granted by



1554 law, the commission may purchase electric transmission line
1555 materials, electric distribution system substation equipment,
1556 transformer equipment, and all other appliances, apparatus,
1557 machinery, equipment and appurtenances necessary for the sale of
1558 electricity, such as utility vehicles and fencing, from the
1559 surplus inventory of the Tennessee Valley Authority or any other
1560 similar agency of the federal government and electric power
1561 associations. These purchases shall be exempt from the public bid
1562 requirements prescribed in Sections 31-7-12 and 31-7-13. However,
1563 for all other purchases, the commission shall advertise for
1564 competitive bids in the manner and form as is required in
1565 accordance with Section 31-7-13. The superintendent or manager
1566 shall make and keep full and proper books and records of all
1567 purchases and shall submit them to the commission for its approval
1568 and ratification before payment thereof is authorized to be made.
1569 The commission may authorize the superintendent or manager to
1570 immediately refund to a customer of the municipally owned utility
1571 his or her deposit for municipal utility services after the
1572 superintendent or manager has determined that payment for all
1573 services and any other obligations which the customer may have
1574 incurred in regard to the municipal utility has been made. It
1575 shall have the right to fix the salaries and term of office of all
1576 employees and to direct them in the discharge of their duties. It
1577 shall have the right to require good and sufficient bonds from all
1578 officers and employees in such amounts as it may deem proper. It



1579 shall have the right to discharge employees when found inefficient
1580 or for other good cause. It shall have the power to make and
1581 collect rates for services and facilities, and appropriate funds
1582 for the maintenance and improvements of such systems. It is
1583 authorized to borrow from the Mississippi Development Bank in
1584 order to fund advance purchases of energy for gas producing,
1585 generating, transmission or distribution system or its electric
1586 generating, transmission or distribution system. It is authorized
1587 to insure all property used in the operation of such systems,
1588 including buildings, furniture, books and records, against loss by
1589 fire and tornado, and to carry sufficient amount of employers
1590 liability, steam boiler, plate glass and other miscellaneous
1591 casualty insurance, as in the discretion of the commission may be
1592 deemed proper, and to pay premiums therefor out of the funds
1593 derived from the operation of the systems. It shall report
1594 quarterly to the governing authorities of the municipality of all
1595 its doings and transactions of every kind whatsoever and shall
1596 make a complete statement of the financial condition of the
1597 systems at the end of each quarter, and shall annually make a
1598 detailed statement covering the entire management and operation of
1599 the systems, with any recommendations which it may have for the
1600 further development of the systems. At any time, the commission,
1601 by order or resolution, may authorize the expansion of activities
1602 of any component facility to include processing of materials on a
1603 custom basis or the processing and marketing of materials acquired



1604 to fully and efficiently utilize existing plant capacity. It
1605 shall also provide copies of all such quarterly and annual reports
1606 and statements to the Public Service Commission when so directed
1607 under Section 77-3-6.

1608 The commission provided for by Section 21-27-13 is also
1609 authorized to allow a municipally owned utility to prepay the
1610 utility's bills to those electricity suppliers which offer early
1611 payment discounts to the municipally owned utility.

1612 **SECTION 45.** Section 21-27-19, Mississippi Code of 1972, is
1613 brought forward as follows:

1614 21-27-19. The commission shall devote all monies, derived
1615 from any source other than the issuance of bonds for purposes
1616 authorized by the laws of the State of Mississippi, to or for the
1617 payment of all operating expenses, including such items as are
1618 normally required of utilities for sales development; to or for
1619 the payment of all bonds and interest on outstanding revenue
1620 bonds, if any, of such systems; to or for the acquisition and
1621 improvement of the system contingencies; to or for the payment of
1622 all other obligations incurred in the operation and maintenance of
1623 the systems and the furnishing of service; to or for the creation
1624 and maintenance of a cash working fund or a surplus fund to be
1625 used for replacement, extension of systems, and emergencies. The
1626 balance of the revenues of said systems, if any, may be used for
1627 any other lawful municipal purpose and may be paid to the
1628 governing authorities of the municipality for distribution to the



1629 various municipal funds, or may be disbursed for said purpose by
1630 the said commission at the direction and request of the governing
1631 authorities of such municipality.

1632 **SECTION 46.** Section 21-27-21, Mississippi Code of 1972, is
1633 brought forward as follows:

1634 21-27-21. The commission shall keep an accurate account and
1635 record of power, current, water, or other services furnished to
1636 all departments of the municipality.

1637 **SECTION 47.** Section 21-27-23, Mississippi Code of 1972, is
1638 brought forward as follows:

1639 21-27-23. Any municipality may:

1640 (a) Borrow money and issue revenue bonds therefor
1641 solely for the purposes specified in this section and by the
1642 procedure provided in Sections 21-27-41 through 21-27-69.

1643 Money may be borrowed and bonds issued by any municipality of
1644 the State of Mississippi, as defined in Section 21-27-11, to
1645 acquire or improve any waterworks system, water supply system,
1646 sewerage system, sewage disposal system, garbage disposal system,
1647 rubbish disposal system or incinerators, gas producing system, gas
1648 generating system, gas transmission system, or gas distribution
1649 system, electric generating, transmission or distribution system,
1650 railroad transportation system for passengers and freight, or
1651 motor vehicle transportation system, including any combination of
1652 any or all of those systems into one (1) system, within or without
1653 the corporate limits thereof, for the purpose of supplying the



1654 municipality and the persons and corporations, both public and
1655 private, whether within or without its corporate limits, with the
1656 services and facilities afforded by the system, provided that
1657 water, electric energy, or gas afforded by any system or systems
1658 may be supplied to such ultimate consumers thereof by sale thereof
1659 to the owners or operators of a distribution system for resale to
1660 the public. Any municipality which shall borrow money and issue
1661 revenue bonds to provide funds with which to acquire a gas
1662 transmission system, if necessary in order to reach and obtain a
1663 source of supply of gas for the municipality, may extend or
1664 construct its gas transmission line into an adjoining state, and
1665 may use and expend part of the proceeds of such issue of revenue
1666 bonds for the purpose.

1667 (b) To assume all indebtedness for any system or
1668 systems which may be acquired under the provisions of this section
1669 as all or part of the consideration for the acquisition of such
1670 system or systems and to issue its revenue bonds in exchange for
1671 the bonds or notes evidencing the indebtedness.

1672 (c) To acquire or improve any system which it is
1673 authorized to borrow money and issue revenue bonds under
1674 subsection (a) of this section to acquire or improve; and to make
1675 contracts in furtherance thereof or in connection therewith.

1676 (d) To own, operate and maintain any such system or
1677 combination of any and all of said systems into one (1) system.



1678 (e) To establish, maintain and collect rates for the
1679 facilities and services offered by any such system; provided that
1680 if there is a combination of systems into one or more systems, the
1681 municipality establishing the same shall be and is empowered to
1682 establish, maintain and collect rates for any and all of the
1683 services or for any combination thereof, and the municipality may
1684 discontinue any or all of the services upon any failure to
1685 promptly pay the charges fixed for the services. The rates so
1686 fixed for services rendered by any system or combination thereof
1687 may be charged for all services rendered thereby, regardless of
1688 whether the services may have been previously rendered without
1689 rates or charges therefor by the previously existing waterworks
1690 system, water supply system, sewerage system, sewage disposal
1691 system, garbage disposal system, rubbish disposal system or
1692 incinerators, gas producing system, gas generating system, gas
1693 transmission system, or gas distribution system, electric
1694 generating, transmission or distribution system, which shall have
1695 been merged into the combined system. Any such municipality may
1696 pledge for the payment of any bonds issued to acquire or improve
1697 any such combined system, or to refund any bonds previously issued
1698 to acquire or improve any such combined system or to acquire or
1699 improve any system merged with such combined system, the revenues
1700 to be derived from the operation of such combined system,
1701 including the charges authorized to be imposed by this section.



1702 A municipality may authorize a municipally owned utility to
1703 make early payment of the utility's bills to its electricity
1704 suppliers which offer early payment discounts to the municipally
1705 owned utility. The municipality may immediately refund to a
1706 customer of the municipally owned utility his or her deposit for
1707 municipal utility services after the municipal utility has
1708 determined that payment for all services and any other obligations
1709 which the customer may have incurred in regard to the municipal
1710 utility has been made.

1711 If the revenues of any previously existing system being
1712 merged into a combined system are subject to a prior lien, the
1713 revenues and the expenses of any previously existing system shall
1714 be accounted for separately to the extent necessary to satisfy the
1715 covenants relating to the prior lien for so long as the
1716 indebtedness secured by the revenues shall remain outstanding.
1717 Only surplus revenues remaining after the satisfaction of all
1718 covenants relating to the outstanding indebtedness may be pledged
1719 to the retirement of any indebtedness to be secured by the
1720 revenues of a combined system. The existence of the outstanding
1721 indebtedness shall not, in and of itself, prevent the combining of
1722 systems as herein provided, so long as the prior lien on the
1723 revenues of any previously existing system is fully satisfied from
1724 the revenues of the previously existing system.

1725 (f) To acquire property, real or personal, which may be
1726 necessary to effectuate the powers conferred by this section. The



1727 municipality may purchase electric transmission line materials,
1728 electric distribution system substation equipment, transformer
1729 equipment, and all other appliances, apparatus, machinery,
1730 equipment and appurtenances necessary for the sale of electricity,
1731 such as utility vehicles and fencing, from the surplus inventory
1732 of the Tennessee Valley Authority or any other similar agency of
1733 the federal government and electric power associations. These
1734 purchases by the municipality shall be exempt from the public bid
1735 requirements prescribed in Sections 31-7-12 and 31-7-13. If the
1736 power of eminent domain is exercised, it shall be exercised in the
1737 manner provided by Sections 11-27-1 through 11-27-51.

1738 (g) To enter into contract with the United States of
1739 America or any agency thereof, under the provisions of acts of the
1740 Congress of the United States, to aid or encourage public works
1741 and the regulations made in pursuance thereof, for the sale of
1742 bonds issued in accordance with the provisions of Sections
1743 21-27-41 through 21-27-69 or for the acceptance of a grant to aid
1744 such municipality in acquiring or improving any such system; and
1745 the contracts may contain terms and conditions as may be agreed
1746 upon by and between the municipality and the United States of
1747 America or any agency thereof, or any purchaser of the bonds.

1748 (h) To adopt the ordinances and resolutions and to do
1749 all things and perform all acts necessary, proper or desirable to
1750 effectuate the full intent and purpose of Sections 21-27-11
1751 through 21-27-69, including processing, marketing, custom



1752 processing, sale and resale of materials processed through any
1753 facility under its jurisdiction.

1754 (i) To borrow from the Mississippi Development Bank in
1755 order to fund the advance purchase of energy for its gas
1756 producing, generating, transmission or distribution system or its
1757 electric generating, transmission or distribution system.

1758 (j) Enter into an interlocal agreement in accordance
1759 with Section 21-27-75.

1760 **SECTION 48.** Section 21-27-25, Mississippi Code of 1972, is
1761 brought forward as follows:

1762 21-27-25. Any municipality which owns or operates any
1763 system, shall have the power and authority through its utilities
1764 commission to borrow money and issue its negotiable notes or
1765 certificates of indebtedness therefor, in an amount not to exceed
1766 ten percent (10%) of the gross revenues of the system in the last
1767 preceding fiscal year, in any calendar year, for the purpose of
1768 improving, repairing or extending any such system, or of
1769 stockpiling fuel for any such system, or systems, without the
1770 necessity of calling and holding an election upon such question or
1771 otherwise obtaining the consent of the qualified electors of the
1772 municipality, or giving any notice thereof. However, the
1773 utilities commission shall secure approval of the governing
1774 authorities of the municipality. In all cases where money is
1775 borrowed under the provisions of this section, the same shall be
1776 repaid within three (3) years and at no time shall the amount of



1777 money borrowed under this section exceed thirty percent (30%) of
1778 the gross revenues of the system for the last preceding fiscal
1779 year.

1780 **SECTION 49.** Section 21-27-27, Mississippi Code of 1972, is
1781 brought forward as follows:

1782 21-27-27. No free service shall be furnished by any such
1783 system, or combined system, to any private person, firm,
1784 corporation, or association. The municipality may, however,
1785 furnish such service, free of charge, to the municipality or any
1786 agency or department thereof, to any public school, or to any
1787 hospital or benevolent institution located within such
1788 municipality, including county, city, and community fairs.

1789 **SECTION 50.** Section 21-27-29, Mississippi Code of 1972, is
1790 brought forward as follows:

1791 21-27-29. Rates charged for services furnished by any system
1792 or combined system purchased, constructed, improved, enlarged,
1793 extended or repaired under the provisions of Sections 21-27-11 to
1794 21-27-69 shall not be subject to supervision or regulation by any
1795 state bureau, board, commission, or other like instrumentality or
1796 agency thereof. It shall not be necessary for any municipality
1797 operating under the provisions of said sections to obtain any
1798 franchise or other permit from any state bureau, board, commission
1799 or other instrumentality thereof, in order to construct, improve,
1800 enlarge, extend or repair any system or combined system. However,
1801 billing and service disputes between the system and its customers



1802 shall be subject to review and arbitration by the Public Service
1803 Commission as provided under Section 77-3-6.

1804 **SECTION 51.** Section 21-27-31, Mississippi Code of 1972, is
1805 brought forward as follows:

1806 21-27-31. Any municipality issuing revenue bonds pursuant to
1807 the authority granted in Section 21-27-23 shall install and
1808 maintain proper books of record and account (separate entirely
1809 from other records and accounts of such municipality), in which
1810 correct entries shall be made of all dealings or transactions of
1811 or in relation to the properties, business and affairs of the
1812 system or combined system. The governing authorities of such
1813 municipality, not later than three months after the close of any
1814 calendar, operating or fiscal year, shall cause to be prepared a
1815 balance sheet and an income and operating and surplus account
1816 showing, respectively, in reasonable detail, the financial
1817 condition of the system or combined system at the close of such
1818 preceding calendar, operating or fiscal year, and the financial
1819 operations thereof during such year. Said balance sheet and the
1820 income and operating and surplus account shall at all times during
1821 the usual business hours be open to examination and inspection by
1822 any taxpayer, user of the services furnished by the system, or any
1823 holder of bonds issued pursuant to the authority granted in
1824 Section 21-27-23, or any one acting for or on behalf of such
1825 taxpayer, user of the services of the system, or bondholder.



1826 **SECTION 52.** Section 21-27-33, Mississippi Code of 1972, is
1827 brought forward as follows:

1828 21-27-33. All municipalities of the state are hereby
1829 empowered and authorized, if they so desire, to sell, lease, or
1830 otherwise dispose of any or all electric, water, gas or other
1831 municipally-owned public utility systems or properties on such
1832 terms and conditions, and with such safeguards as will best
1833 promote and protect the public interest. Said municipal
1834 corporations are empowered and authorized to transfer title to
1835 said public utility properties by warranty deed, bill of sale,
1836 contract, or lease, in the manner provided by law. However,
1837 notice of intention to make such sale, lease, or disposition of
1838 any such system, setting out the price and other general terms and
1839 conditions of such proposed sale, lease, or disposition shall be
1840 given by publication, once a week for three consecutive weeks in a
1841 legal newspaper published in such municipality, and if no such
1842 newspaper be published in said municipality, then in some
1843 newspaper having a general circulation in such municipality.
1844 After ten days from the last publication of such notice, the
1845 system may be disposed of, unless within ten days after the last
1846 publication of such notice a petition signed by not less than
1847 twenty per centum of the qualified voters of such municipality be
1848 filed, objecting to and protesting against such sale, lease, or
1849 disposition, in which event the same shall not be made unless
1850 submitted to a special election ordered for the purpose of



1851 determining whether a majority of those voting in such election
1852 shall vote for or against such sale, lease, or other disposition.
1853 Such election shall be ordered to be held not less than forty days
1854 after the date of the last notice of the proposed sale, lease or
1855 disposition. Notice of such election, stating the purpose of
1856 election, shall be published once each week for three consecutive
1857 weeks next preceding the time set for holding said election in
1858 such newspaper as herein provided. The laws governing special
1859 municipal elections shall govern the ordering and conduct of said
1860 election.

1861 The ballots provided shall have plainly written or printed
1862 thereon the words "shall the waterworks, electric, or gas (as the
1863 case may be) system be sold, leased, or disposed of (as the case
1864 may be)" and below said words shall be suitably placed on separate
1865 lines, the words "yes" and "no," so that the voter may indicate
1866 the way he desires to vote on the question submitted.

1867 If a majority of those voting in said election shall vote in
1868 favor of such sale, lease, or disposition, then the proper officer
1869 of the municipality may proceed to sell, lease or dispose of such
1870 system in accordance with the terms and conditions set out in the
1871 notice of proposed intention to sell, lease or dispose of such
1872 system, as herein provided. If such election is determined
1873 against such sale, lease or disposition of such system, then such
1874 system shall not be sold, leased or disposed of, but shall remain
1875 the property of the municipality.



1876 **SECTION 53.** Section 21-27-35, Mississippi Code of 1972, is
1877 brought forward as follows:

1878 21-27-35. The governing authorities of any municipality
1879 which have sold or which may hereafter sell any utility system
1880 owned by such municipality, may use the proceeds of the sale of
1881 such system, or any part thereof, for the purpose of retiring and
1882 paying off any of the public debt of the municipality, and they
1883 may purchase the outstanding bonds or other obligations of the
1884 said municipality at such price, whether above or below par, as
1885 they may consider fair and reasonable. The said governing
1886 authorities may, in their discretion, invest the said funds, or
1887 any part thereof, derived from the sale of the said system or
1888 systems in any of the securities now eligible for purchase by
1889 public sinking funds of municipalities, at such price, whether
1890 above or below par, as they may determine to be fair and
1891 reasonable.

1892 **SECTION 54.** Section 21-27-37, Mississippi Code of 1972, is
1893 brought forward as follows:

1894 21-27-37. The governing authorities of every municipality
1895 shall have power to inspect or cause to be inspected the
1896 machinery, appliances and premises of all persons, copartnerships
1897 or corporations owning or operating any system within their
1898 corporate limits, in order to ascertain whether or not the said
1899 machinery, appliances and premises are kept in a sanitary
1900 condition and in condition to comply with the terms and



1901 requirements of the franchise or franchises under which the said
1902 system or systems are operated.

1903 If any person, copartnership or corporation, or any employee
1904 thereof, shall refuse to permit the municipal governing
1905 authorities to make such inspection immediately when requested so
1906 to do, they shall, for each such refusal, forfeit the sum of one
1907 thousand dollars, to be recovered in an action in the name of said
1908 municipality.

1909 **SECTION 55.** Section 21-27-39, Mississippi Code of 1972, is
1910 brought forward as follows:

1911 21-27-39. All municipalities owning or operating any system
1912 or systems may supply consumers residing outside of and within
1913 five (5) miles of the corporate limits of the municipality. In
1914 any county traversed by two (2) or more natural gas transmission
1915 lines and having therein two (2) or more natural gas compressor
1916 stations engaged in rendering service in interstate commerce, and
1917 wherein a natural gas transmission line of a municipality can be
1918 laid wholly in alluvial soil, where it is necessary for any
1919 municipality having a population of less than one thousand
1920 (1,000), according to the federal census of 1950, to construct a
1921 gas transmission line for a distance of more than five (5) miles
1922 but not more than eleven (11) miles from its corporate limits to
1923 the nearest point at which an adequate supply of natural gas can
1924 be obtained, and where there are not less than two hundred (200)
1925 prospective gas customers residing outside the corporate limits of



1926 such municipality but along and within one-half (1/2) mile of the
1927 gas transmission line so constructed by the municipality, then and
1928 in that event, the municipality may supply natural gas to such
1929 customers. Any municipality having its own natural gas
1930 transmission system in any county bordering the State of Alabama,
1931 in which U.S. Highway No. 78 and State Highway No. 25 intersect,
1932 and in which there is a publicly supported junior college, may
1933 extend its transmission lines and supply customers within the
1934 county for a distance of fifteen (15) miles from the corporate
1935 limits. Any municipality having a population of less than one
1936 thousand (1,000) people, according to the federal census of 1960,
1937 and being located in the county in which U.S. Highway 51 and U.S.
1938 Highway 82 intersect, and in the county where the main line of
1939 Illinois Central Railroad and Columbus and Greenville Railroad
1940 intersect, may construct a gas transmission line and supply
1941 customers within a four-county area for a distance of forty-five
1942 (45) miles from the corporate limits of the municipality. Any
1943 municipality having its own water distribution system, the
1944 construction or expansion of which has been financed in whole or
1945 in part by an agency of the United States government, and having a
1946 population of less than five hundred (500) persons, and located in
1947 a county in which Mississippi State Highways Number 12 and Number
1948 429 intersect, may construct, expand and operate its water
1949 distribution system within the county or adjoining counties for a
1950 distance of fifteen (15) miles from the corporate limits. Any



1951 municipality having its own water distribution system, the
1952 construction or expansion of which has been financed in whole or
1953 in part by an agency of the United States government, and having a
1954 population of less than fifteen hundred (1500) persons, and
1955 located in a county in which Highway 15 and Highway 32 intersect
1956 and has a national forest, may construct, expand and operate its
1957 water distribution system within the county or adjoining counties
1958 for a distance of fifteen (15) miles from the corporate limits.

1959 Any municipality having its own water distribution system and
1960 located in a county having two (2) judicial districts, and in
1961 which Mississippi Highways 17 and 35 intersect, may construct,
1962 expand and operate its water distribution system within the county
1963 or adjoining counties for a distance of fifteen (15) miles from
1964 the corporate limits. Any municipality having its own water
1965 distribution system, wherein U.S. Highway 51 and Mississippi
1966 Highway 35 intersect, and located in a county in which U.S.
1967 Highway 82 and Mississippi Highway 17 intersect, may construct,
1968 expand and operate its water distribution system within the county
1969 or adjoining counties for a distance of fifteen (15) miles from
1970 the corporate limits. Whenever such service shall be furnished to
1971 any consumer residing outside the corporate limits thereof, such
1972 consumer may not be charged at a rate greater than twice the rate
1973 charged for such services within the municipality.

1974 Any municipality located within a county bordering the
1975 Mississippi River and in which Highways 49 and 61 intersect may



1976 acquire, construct, expand and operate its railroad transportation
1977 system for the transportation of passengers and freight for more
1978 than five (5) miles outside its corporate limits and outside the
1979 boundaries of the county in which it is located. Any municipality
1980 having a population of more than forty-five thousand (45,000) but
1981 less than forty-five thousand one hundred (45,100) according to
1982 the 1970 federal decennial census, may expand its motor vehicle
1983 transportation system for the transportation of passengers for
1984 more than five (5) miles outside its corporate limits.

1985 Any municipality having a population of less than five
1986 hundred (500) according to the 1980 federal decennial census,
1987 being located north of U.S. Highway 82 in a county in which is
1988 located a United States Air Force base and a state-supported
1989 institution of higher learning established primarily for women,
1990 which criteria the Legislature finds to be conducive to the
1991 expansion of natural gas service to support contiguous areas of
1992 such Air Force base, may construct, own and/or operate a public
1993 utility or natural gas system and supply customers within the
1994 county for a distance of eleven (11) miles from the corporate
1995 limits.

1996 **SECTION 56.** Section 21-27-41, Mississippi Code of 1972, is
1997 brought forward as follows:

1998 21-27-41. Whenever the governing authorities of any
1999 municipality shall determine to issue bonds pursuant to the
2000 authority granted in Section 21-27-23 to acquire or improve a



2001 system, it shall cause an estimate to be made of the cost of such
2002 system or improvement, and the fact that such estimate has been
2003 made shall appear in the ordinance authorizing the issuance of
2004 such bonds, which ordinance shall set forth a brief description in
2005 general terms of the contemplated system or improvement, the
2006 estimated life thereof, the said estimated cost thereof, the
2007 amount, date, denominations, rate of interest, times and places of
2008 payment and other details in connection with the issuance of the
2009 bonds, and such covenants and restrictions as may be necessary or
2010 desirable to safeguard the interests of the holders of the bonds.

2011 **SECTION 57.** Section 21-27-43, Mississippi Code of 1972, is
2012 brought forward as follows:

2013 21-27-43. Except as hereinafter provided, no bonds shall be
2014 issued pursuant to the authority granted in Section 21-27-23 until
2015 and unless a majority of those qualified electors of the
2016 municipality, voting on a proposition stating in general terms the
2017 maximum amount and purposes of the bonds, have approved the
2018 issuance at a special election called thereon according to law.

2019 However, the requirement for an election to be held before
2020 the issuance of the bonds shall not apply to the issuance of the
2021 revenue bonds for the purpose of improving, repairing or extending
2022 any waterworks system, water supply system, sewage system, sewage
2023 disposal system (or the addition of a sewage disposal system to a
2024 sewage system), gas producing system, gas generating,
2025 transmission, or distribution system, electric generating,



2026 transmission, or distribution system, garbage disposal system,
2027 rubbish disposal or incinerator system, or motor vehicle
2028 transportation system, which is now, or hereafter, owned or
2029 operated by any municipality, or railroad transportation system
2030 owned or operated by any municipality located in a county
2031 bordering the Mississippi River and in which Highways 49 and 61
2032 intersect. The revenue bonds may be issued for such purposes in
2033 the following manner: notice of intention to issue the revenue
2034 bonds, setting out the amount and other terms or conditions of the
2035 proposed issue, shall be given by publication once a week for
2036 three (3) consecutive weeks in a local newspaper published in the
2037 municipality, and if a newspaper is not published in the
2038 municipality, then in some newspaper having a general circulation
2039 in the municipality. After ten (10) days from the last
2040 publication of the notice, the bonds may be sold under the regular
2041 procedure for selling the bonds unless, within ten (10) days after
2042 the last publication of the notice, a petition signed by not less
2043 than twenty percent (20%) of the qualified voters of such
2044 municipality be filed objecting to and protesting against such
2045 revenue bond issue, in which event the same shall not be made
2046 unless submitted to a special election ordered for the purpose of
2047 determining whether or not a majority of those voting in the
2048 election shall vote for or against the revenue bond issue. The
2049 election shall be ordered to be held not later than forty (40)
2050 days after the date of the last notice of the proposed revenue



2051 bond issue. Notice of the election, stating the purpose of the
2052 election, shall be published once each week for three (3)
2053 consecutive weeks next preceding the time set for holding the
2054 election in the newspaper, provided in this section. The laws
2055 governing municipal elections shall govern the order and conduct
2056 of the election. However, nothing in this section shall prevent
2057 the governing authorities from calling an election, whether
2058 required by petition of twenty percent (20%) of the qualified
2059 voters or not. This section shall not have application to and it
2060 shall not affect the authority granted public utilities
2061 commissions under Section 21-27-25.

2062 **SECTION 58.** Section 21-27-45, Mississippi Code of 1972, is
2063 brought forward as follows:

2064 21-27-45. Such bonds as may be issued pursuant to the
2065 authority granted in Section 21-27-23 may be serial or term;
2066 redeemable, with or without premium, or nonredeemable; registered
2067 or coupon bonds with registration privileges as to either
2068 principal and interest, principal only or both. They shall bear
2069 interest at a rate to be determined pursuant to the sale of the
2070 bonds, and shall be payable at such time or times as shall be
2071 prescribed in the ordinance authorizing them. They shall mature
2072 at such time or times, not exceeding the said estimated life of
2073 the contemplated system or improvement, and in no event longer
2074 than thirty (30) years from their date, and at such place or
2075 places as shall be prescribed in the ordinance authorizing their



2076 issuance. Any provisions of the general laws to the contrary
2077 notwithstanding, any bonds and interest coupons issued pursuant to
2078 the authority granted in Section 21-27-23 shall possess all the
2079 qualities of negotiable instruments. The bonds and the interest
2080 coupons shall be executed in such manner and shall be
2081 substantially in the form prescribed in the authorizing ordinance.
2082 In case any of the officers whose signatures or countersignatures
2083 appear on the bonds or interest coupons shall cease to be such
2084 officers before delivery of such bonds, such signatures or
2085 countersignatures shall nevertheless be valid and sufficient for
2086 all purposes the same as if they had remained in office until such
2087 delivery. No bond shall bear more than one (1) rate of interest.
2088 Each bond shall bear interest from its date to its stated maturity
2089 date at the interest rate specified in the bid. All bonds of the
2090 same maturity shall bear the same rate of interest from date to
2091 maturity. All interest accruing on such bonds so issued shall be
2092 payable semiannually or annually, except that the first interest
2093 coupon attached to any such bond may be for any period not
2094 exceeding one (1) year.

2095 No interest payment shall be evidenced by more than one (1)
2096 coupon and neither cancelled nor supplemental coupons shall be
2097 permitted. The lowest interest rate specified for any bonds
2098 issued shall not be less than seventy percent (70%) of the highest
2099 interest rate specified for the same bond issue. Such bonds shall
2100 be sold in such manner and upon such terms as the governing



2101 authorities of the municipality shall determine, provided that
2102 such bonds shall not bear a greater overall maximum interest rate
2103 to maturity than that allowed in Section 75-17-103, Mississippi
2104 Code of 1972, and the interest rate on any one (1) interest
2105 maturity shall not exceed the maximum interest rate allowed on
2106 such bonds. Each interest rate specified in any bid must be in
2107 multiples of one-eighth of one percent (1/8 of 1%) or in multiples
2108 of one-tenth of one percent (1/10 of 1%). If serial bonds, such
2109 bonds shall mature annually, and the first maturity date thereof
2110 shall not be more than five (5) years from the date of such bonds.
2111 Such bonds shall be legal investments for trustees and other
2112 fiduciaries, and for savings banks, trust companies and insurance
2113 companies organized under the laws of the State of Mississippi.
2114 The bonds and interest coupons shall be exempt from all state,
2115 county, municipal and other taxation under the laws of the State
2116 of Mississippi. The principal of and interest upon such bonds
2117 shall be payable solely from the revenues derived from the
2118 operation of the system acquired or improved with proceeds of the
2119 sale of such bonds. No bond issued pursuant to the authority
2120 granted in Section 21-27-23 shall constitute an indebtedness of a
2121 municipality within the meaning of any statutory or charter
2122 restriction, limitation or provision. It shall be plainly stated
2123 on the face of each such bond in substance that the same has been
2124 issued pursuant to the authority granted in Section 21-27-23 and
2125 that the taxing power of the municipality issuing the same is not



2126 pledged to the payment of such bond or interest thereon, and that
2127 such bond and the interest thereon are payable solely from the
2128 revenues of the system to acquire or improve which such bond is
2129 issued.

2130 Such bonds shall be sold on sealed bids at public sale in the
2131 manner provided by Section 31-19-25. In the event the issuing
2132 municipality shall have received a commitment from any agency of
2133 the United States of America for the purchase of all or any
2134 portion of an issue of such bonds prior to the sale thereof or for
2135 financial assistance in providing debt service on such bonds,
2136 then, and in such event, said issue or any part thereof may be
2137 sold to the United States of America or any agency thereof at
2138 private sale. Provided, however, no bonds issued under the
2139 authority of Section 21-27-23 shall bear an overall maximum
2140 interest rate greater than that allowed in Section 75-17-103,
2141 Mississippi Code of 1972.

2142 It is specifically provided that any bond issue to be awarded
2143 and sold to the United States of America or any agency thereof
2144 shall mature at such time or times, not to exceed thirty-five (35)
2145 years, as shall be prescribed in the ordinance of the municipality
2146 authorizing their issuance.

2147 It is specifically provided that any bond issue to be awarded
2148 and sold to the United States of America or any agency thereof may
2149 be issued as one or more amortized bonds without coupons, may be
2150 dated the date of delivery thereof, and the purchase price for



2151 such bond or bonds may be delivered in multiple advances, with
2152 interest to accrue on the principal advanced from the date of each
2153 such advance. The amount of each such advance and the date
2154 thereof shall be registered on the reverse of each such bond and
2155 attested by the manual signature of the clerk of the municipality.

2156 On issues of Five Million Dollars (\$5,000,000.00) or more,
2157 the governing authorities of a municipality may retain the
2158 services of a fiscal advisor to assist in the sale of bonds
2159 hereunder and pay to such fiscal advisor a fee not to exceed the
2160 following amount: Twenty-five Thousand Dollars (\$25,000.00) plus
2161 one-quarter of one percent (1/4 of 1%) of the amount of the issue
2162 in excess of Five Million Dollars (\$5,000,000.00). No such fiscal
2163 advisor shall be eligible to bid for or participate in the
2164 underwriting of the bonds for which he acted as advisor.

2165 Before a person can qualify as a fiscal advisor under the
2166 terms of this section, he shall have been actively engaged in the
2167 business of fiscal counseling for municipalities, or the
2168 underwriting of municipal bonds, for a period of five (5) years
2169 prior to qualifying under this section. A partnership or
2170 corporation may become a fiscal advisor hereunder with the same
2171 qualifications. Such person, corporation, or partnership shall
2172 have had prior experience as a fiscal advisor or been involved in
2173 the underwriting or investing in bonds of the State of
2174 Mississippi, or one or more of the subdivisions thereof, and such



2175 person, partnership or corporation shall be recognized in the
2176 fiscal community as a reputable and qualified fiscal advisor.

2177 **SECTION 59.** Section 21-27-47, Mississippi Code of 1972, is
2178 brought forward as follows:

2179 21-27-47. Any municipality having outstanding bonds issued
2180 pursuant to the authority granted in Section 21-27-23 shall
2181 maintain rates for all the services and facilities afforded by any
2182 system, the revenues of which are pledged to the payment of such
2183 bonds, which rates shall be sufficient at all times to maintain an
2184 interest and bond redemption fund sufficient to pay the interest
2185 on and principal of such bonds as and when the same become due and
2186 payable and, if so provided in the ordinance authorizing such
2187 bonds, to accumulate a reserve in such fund, and to provide for
2188 the payment of such cost of operation and maintenance as may be
2189 necessary to keep such system at all times in good repair and
2190 working order. Such rates shall be fixed by separate ordinance
2191 precedent to or at the time of the issuance of such bonds and
2192 shall be revised from time to time so as to produce the amounts
2193 necessary to provide for the foregoing. Bonds issued pursuant to
2194 the authority granted in Section 21-27-23 to acquire or improve a
2195 system shall be secured by a pledge of an amount of the gross
2196 revenues of such system sufficient to maintain such an interest
2197 and bond redemption fund. However, if there are then outstanding
2198 bonds to the payment of which the revenues of a system have been
2199 previously pledged, then, until said outstanding bonds have been



2200 retired, bonds issued to improve such system shall be secured by a
2201 pledge of the revenues of the system in such an amount only after
2202 deductions have been made for servicing the said outstanding bonds
2203 and for maintaining and operating the system. Notwithstanding the
2204 above provisions, all revenue bonds issued for a specific utility
2205 may be issued on an equivalent basis, provided that each and every
2206 ordinance authorizing each and every bond issued shall clearly
2207 state the basis on which future revenue bond issues shall be
2208 provided for in order to place them on an equivalent basis with
2209 prior issues.

2210 **SECTION 60.** Section 21-27-49, Mississippi Code of 1972, is
2211 brought forward as follows:

2212 21-27-49. Whenever any municipality shall issue any bonds or
2213 other evidence of indebtedness which are payable solely from
2214 revenues to be derived from any system, the governing authorities
2215 of such municipality may, by appropriate provision in the
2216 ordinance or resolution authorizing the issuance of such bonds, or
2217 by separate resolution or ordinance passed at or prior to the
2218 actual sale of such bonds, bind and obligate such municipality to
2219 take, for a period not exceeding the full term of such bonds, at
2220 least a stated minimum of the services to be afforded by such
2221 system and to pay, out of its corporate funds, a least a stated
2222 minimum price therefor. Such provision, resolution or ordinance
2223 shall constitute a contract between such municipality and all the
2224 holders of such bonds.



2225 All such agreements heretofore entered into by any such
2226 municipality, whether such bonds have actually been delivered and
2227 paid for or not, are hereby ratified, approved and validated.

2228 **SECTION 61.** Section 21-27-51, Mississippi Code of 1972, is
2229 brought forward as follows:

2230 21-27-51. Any municipality which shall have issued bonds
2231 pursuant to the authority granted in Section 21-27-23, all or any
2232 portion of which shall at any time hereafter remain outstanding
2233 and unpaid, is hereby authorized, in connection with the issuance
2234 of additional bonds hereunder, to issue refunding bonds for the
2235 purpose of taking up, paying and redeeming all such outstanding
2236 and unpaid bonds. Such refunding bonds and such additional bonds
2237 may be authorized and issued separately or may be consolidated
2238 into one issue. Such outstanding and unpaid bonds may be refunded
2239 without notice and without an election thereon, and such
2240 additional bonds may be refunded without notice and without an
2241 election except as provided in Section 21-27-43. The proceeds of
2242 any such consolidated bonds shall be used to take up, pay and
2243 redeem all of such outstanding and unpaid bonds, at their
2244 redemption price, and the balance of such proceeds shall be used
2245 and expended for the purposes for which the additional bonds were
2246 authorized to be issued. In the event any such outstanding bonds,
2247 by the terms thereof, shall be redeemable prior to maturity at the
2248 option of such municipality, then such option of redemption shall
2249 be exercised in the manner provided in such bonds, and the



2250 refunding bonds shall not be issued or delivered more than two
2251 calendar months in advance of the date upon which such outstanding
2252 bonds shall have been called for redemption. In the event that
2253 such outstanding bonds, by the terms thereof, be not so redeemable
2254 prior to maturity, then the refunding bonds shall not be issued,
2255 except concurrently with the surrender and cancellation of a like
2256 amount of the bonds to be refunded thereby. All bonds issued
2257 under the provisions of this section shall have like incidents and
2258 shall be payable from the same source or sources and the payment
2259 thereof shall be secured in like manner as are bonds issued
2260 pursuant to the authority granted in Section 21-27-23. In lieu of
2261 selling such portion of such consolidated bonds, as may be
2262 required to provide for the redemption of such outstanding bonds,
2263 such consolidated bonds may be issued and delivered in exchange
2264 for and upon surrender and cancellation of a like amount of the
2265 bonds to be refunded thereby.

2266 **SECTION 62.** Section 21-27-53, Mississippi Code of 1972, is
2267 brought forward as follows:

2268 21-27-53. The holder of any bond or any interest coupon
2269 issued pursuant to the authority granted in Sections 21-27-23 and
2270 21-27-51 may, by suit, action, mandamus or other proceedings at
2271 law or in equity, enforce and compel performance by the
2272 appropriate official or officials of the municipality of any or
2273 all acts and duties to be performed by such municipality under the
2274 provisions of Sections 21-27-11 through 21-27-69 and the ordinance



2275 authorizing the issuance of such bond or interest coupon. If
2276 there be any default in the payment of the interest on and
2277 principal of any of said bonds, any court having jurisdiction in
2278 the proper action may, upon petition of the holder of any of such
2279 bonds, appoint a receiver to administer and operate the system
2280 with power to fix rates and collect charges sufficient to provide
2281 for the payment of all bonds outstanding to the payment of which
2282 the revenues of such system are pledged and to pay the expenses of
2283 operating and maintaining such system and to apply the revenues of
2284 such system, all in conformity with the provisions of Sections
2285 21-27-11 through 21-27-69 and of the ordinance authorizing the
2286 issuance of such bonds.

2287 **SECTION 63.** Section 21-27-55, Mississippi Code of 1972, is
2288 brought forward as follows:

2289 21-27-55. The governing authorities of any municipality
2290 authorizing revenue bonds pursuant to the authority granted in
2291 Sections 21-27-23 and 21-27-51, may make provisions for any of
2292 such revenue bonds to be called for payment at any interest
2293 payment date before maturity, provided the municipality shall have
2294 on hand in its bond and interest fund sufficient moneys, not
2295 otherwise appropriated or pledged, in excess of the interest and
2296 principal requirements within the next two succeeding calendar,
2297 operating or fiscal years.

2298 **SECTION 64.** Section 21-27-57, Mississippi Code of 1972, is
2299 brought forward as follows:



2300 21-27-57. In the authorizing order or ordinance, the
2301 governing authorities of the municipality shall set aside monthly
2302 and shall pledge the revenues of the system or combined system, in
2303 separate and special funds as follows: (1) operation and
2304 maintenance fund; (2) depreciation fund; (3) bond and interest
2305 fund; (4) contingent fund. A sufficient amount shall be set aside
2306 each year for the retirement of the bonds and interest. Any
2307 surplus revenue remaining shall be disposed of by the governing
2308 authorities of the municipality as they may determine from time to
2309 time for the best interest of the municipality. However, in the
2310 segregation into the several funds the governing authorities may
2311 prescribe a reasonable excess amount to be placed in the revenue
2312 bond and interest fund from time to time during the earlier years
2313 of maturity of such bonds so as to thereby provide and produce a
2314 cushion fund to meet any possible deficiencies therein in future
2315 years. In the event such excess amounts are provided in the
2316 earlier years, the same would be available for such purposes.
2317 Bonds pursuant to the authority granted in Sections 21-27-23 and
2318 21-27-51, shall be payable solely from revenues of said project
2319 and out of the bond and interest fund.

2320 **SECTION 65.** Section 21-27-59, Mississippi Code of 1972, is
2321 brought forward as follows:

2322 21-27-59. Nothing in Sections 21-27-11 through 21-27-69
2323 shall be construed to prohibit the municipality from appropriating
2324 and using any part of its available income or revenues derived



2325 from any source other than from the operation of such system or
2326 combined system in paying any immediate expenses of operation
2327 and/or maintenance of any such system or combined system. Nothing
2328 in Sections 21-27-11 through 21-27-69 shall be construed, however,
2329 to require the municipality to do so.

2330 **SECTION 66.** Section 21-27-61, Mississippi Code of 1972, is
2331 brought forward as follows:

2332 21-27-61. The governing authorities of any municipality
2333 shall devote all monies of the system derived from any source
2334 other than the issuance of bonds for purposes authorized by the
2335 laws of the State of Mississippi, to or for the payment of all
2336 operating expenses, including such items as are normally required
2337 of utilities for sales development; to or for the payment of all
2338 bonds and interest on outstanding revenue bonds, if any, of such
2339 system; to or for the acquisition and improvement of the system
2340 contingencies; to or for the payment of all other obligations
2341 incurred in the operation and maintenance of the system and the
2342 furnishing of service; and to or for the creation and maintenance
2343 of a cash working fund or a surplus fund to be used for
2344 replacement, extension of systems and emergencies. The balance of
2345 any monies, including but not limited to, any which have
2346 heretofore been classified as revenues or surplus of such system,
2347 if any, may be used for any lawful, municipal purpose and may be
2348 paid to the governing authorities of the municipality for
2349 distribution to the various municipal funds or may be disbursed



2350 for such purpose by the governing authorities at their direction.
2351 The purpose of any allocation or expenditure of money made
2352 pursuant to this section shall be spread upon the minutes of the
2353 municipal governing authorities.

2354 **SECTION 67.** Section 21-27-63, Mississippi Code of 1972, is
2355 brought forward as follows:

2356 21-27-63. Nothing in Sections 21-27-11 through 21-27-69
2357 shall be construed as authorizing any municipality to impair or
2358 commit a breach of the obligation of any valid lien or contract
2359 created or entered into by it, the intention hereof being to
2360 authorize the pledging, setting aside and segregation of gross
2361 revenue only where consistent with outstanding obligations of such
2362 municipality.

2363 **SECTION 68.** Section 21-27-65, Mississippi Code of 1972, is
2364 brought forward as follows:

2365 21-27-65. If, after the governing authorities of any
2366 municipality have issued revenue bonds pursuant to the authority
2367 granted in Sections 21-27-23 and 21-27-51, said governing
2368 authorities fail or refuse to carry out their duties with
2369 reference to setting aside the trust funds, said officers shall be
2370 guilty of a misdemeanor and, upon trial and conviction, shall be
2371 removed from office.

2372 **SECTION 69.** Section 21-27-67, Mississippi Code of 1972, is
2373 brought forward as follows:



2374 21-27-67. Sections 21-27-11 through 21-27-69, being
2375 necessary for and to secure the public health, safety, convenience
2376 and welfare of the municipalities of the State of Mississippi,
2377 shall be liberally construed to effect the purposes hereof.

2378 The powers conferred by Sections 21-27-11 through 21-27-69
2379 shall be in addition to the powers conferred by any other law,
2380 general, special or local, and such sections shall, without
2381 reference to any other statute or to any charter, be deemed full
2382 authority to purchase or improve and to own and operate the
2383 authorized revenue producing systems, to fix, maintain, and to
2384 collect rates for the facilities afforded by such systems, to
2385 issue and to sell the authorized bonds, and shall be construed as
2386 an additional and alternative method therefor, any provisions of
2387 the general laws of the state or of any charter to the contrary
2388 notwithstanding.

2389 **SECTION 70.** Section 21-27-69, Mississippi Code of 1972, is
2390 brought forward as follows:

2391 21-27-69. The repeal heretofore of any law authorizing a
2392 municipality to borrow money and issue bonds to acquire or improve
2393 any system shall not affect the validity of any bonds issued or
2394 contracts entered into under the provisions of any such repealed
2395 laws.

2396 **SECTION 71.** Section 21-27-71, Mississippi Code of 1972, is
2397 brought forward as follows:



2398 21-27-71. Whenever the governing authorities of any
2399 municipality of more than one hundred thousand (100,000)
2400 population shall determine to issue bonds under the provisions of
2401 Sections 21-27-11 to 21-27-69, to acquire or improve a system, it
2402 shall cause an estimate to be made of the cost of such system or
2403 improvement, and the fact that such estimate has been made shall
2404 appear in the ordinance authorizing the issuance of such bonds,
2405 which ordinance shall set forth a brief description in general
2406 terms of the contemplated system or improvement, the estimated
2407 life thereof, the said estimated cost thereof, the amount, date,
2408 denominations, rate of interest, times and places of payment and
2409 other details in connection with the issuance of the bonds, and
2410 such covenants and restrictions as may be necessary or desirable
2411 to safeguard the interests of the holders of the bonds. Such
2412 bonds may be serial or term; redeemable, with or without premium,
2413 or nonredeemable; registered or coupon bonds with registration
2414 privileges as to either principal and interest, principal only or
2415 both. They shall bear interest at a rate to be determined
2416 pursuant to the sale of the bonds, and shall be payable at such
2417 time or times as shall be prescribed in the ordinance authorizing
2418 them. They shall mature at such time or times, not exceeding the
2419 said estimated life of the contemplated system or improvement, and
2420 in no event exceeding thirty (30) years from their date, and at
2421 such place or places as shall be prescribed in the ordinance
2422 authorizing their issuance; provided, however, that any bond issue



2423 to be awarded and sold to the United States of America or any
2424 agency thereof shall mature at such time or times, not to exceed
2425 thirty-five (35) years, as shall be prescribed in the ordinance
2426 authorizing their issuance. Any provisions of the general laws to
2427 the contrary notwithstanding, any bonds and interest coupons
2428 issued pursuant to the authority of this section shall possess all
2429 the qualities of negotiable instruments. The bonds and the
2430 interest coupons shall be executed in such manner and shall be
2431 substantially in the form prescribed in the authorizing ordinance.
2432 In case any of the officers whose signatures or countersignatures
2433 appear on the bonds or interest coupons shall cease to be such
2434 officers before delivery of such bonds, such signatures or
2435 countersignatures shall nevertheless be valid and sufficient for
2436 all purposes the same as if they had remained in office until such
2437 delivery. No bond shall bear more than one (1) rate of interest.
2438 Each bond shall bear interest from its date to its stated maturity
2439 date at the interest rate specified in the bid. All bonds of the
2440 same maturity shall bear the same rate of interest from date to
2441 maturity. All interest accruing on such bonds so issued shall be
2442 payable semiannually or annually, except that the first interest
2443 coupon attached to any such bond may be for any period not
2444 exceeding one (1) year.

2445 No interest payment shall be evidenced by more than one (1)
2446 coupon and neither cancelled nor supplemental coupons shall be
2447 permitted. The lowest interest rate specified for any bonds



2448 issued shall not be less than seventy percent (70%) of the highest
2449 interest rate specified for the same bond issue. Such bonds shall
2450 be sold in such manner and upon such terms as the governing
2451 authorities of the municipality shall determine, provided that
2452 such bonds shall not bear a greater overall maximum interest rate
2453 to maturity than that allowed in Section 75-17-103, Mississippi
2454 Code of 1972, and the interest rate on any one (1) interest
2455 maturity shall not exceed the maximum interest rate allowed on
2456 such bonds. If serial bonds, such bonds shall mature annually,
2457 and the first maturity date thereof shall not be more than five
2458 (5) years from the date of such bonds. Such bonds shall be legal
2459 investments for trustees and other fiduciaries, and for savings
2460 banks, trust companies and insurance companies organized under the
2461 laws of the State of Mississippi. The bonds and interest coupons
2462 shall be exempt from all state, county, municipal and other
2463 taxation under the laws of the State of Mississippi. The principal
2464 of and interest upon such bonds shall be payable solely from the
2465 revenues derived from the operation of the system acquired or
2466 improved with proceeds of the sale of such bonds. No bond issued
2467 pursuant to this section shall constitute an indebtedness of a
2468 municipality within the meaning of any statutory or charter
2469 restriction, limitation or provision. It shall be plainly stated
2470 on the face of each such bond in substance that the same bond has
2471 been issued under the provisions of this section and that the
2472 taxing power of the municipality issuing the same is not pledged



2473 to the payment of such bond or interest thereon, and that such
2474 bond and the interest thereon are payable solely from the revenues
2475 of the system to acquire or improve which such bond is issued.

2476 Such bonds shall be sold on sealed bids at public sale in the
2477 manner provided by Section 31-19-25. In the event the issuing
2478 municipality shall have received a commitment from any agency of
2479 the United States of America for the purchase of all or any
2480 portion of an issue of such bonds prior to the sale thereof or for
2481 financial assistance in providing debt service on such bonds,
2482 then, and in such event, said issue or any part thereof may be
2483 sold to the United States of America or any agency thereof at
2484 private sale. Bonds in the aggregate amount of Two Hundred
2485 Thousand Dollars (\$200,000.00) for any project may be sold at
2486 private sale either to underwriters or investors.

2487 On issues of Five Million Dollars (\$5,000,000.00) or more,
2488 the governing authorities of a municipality may retain the
2489 services of a fiscal advisor to assist in the sale of bonds
2490 hereunder and pay to such fiscal advisor a fee not to exceed the
2491 following amount: Twenty-five Thousand Dollars (\$25,000.00) plus
2492 one-quarter of one percent (1/4 of 1%) of the amount of the issue
2493 in excess of Five Million Dollars (\$5,000,000.00). No such fiscal
2494 advisor shall be eligible to bid for or participate in the
2495 underwriting of the bonds for which he acted as advisor.

2496 Before a person can qualify as a fiscal advisor under the
2497 terms of this section, he shall have been actively engaged in the



2498 banking business, or the business of fiscal counseling for
2499 municipalities, or the underwriting of municipal bonds, for a
2500 period of five (5) years prior to qualifying under this section. A
2501 partnership or corporation may become a fiscal advisor hereunder
2502 with the same qualifications. Such person, corporation, or
2503 partnership shall have had prior experience as a fiscal advisor or
2504 been involved in the underwriting or investing in bonds of the
2505 State of Mississippi, or one or more of the subdivisions thereof,
2506 and such person, partnership or corporation shall be recognized in
2507 the fiscal community as a reputable and qualified fiscal advisor.

2508 **SECTION 72.** Section 21-27-73, Mississippi Code of 1972, is
2509 brought forward as follows:

2510 21-27-73. The governing authority of any municipality that
2511 owns and operates a gas distribution system, as defined in Section
2512 21-27-11(b), and the governing authority of any public natural gas
2513 district are authorized to contract for the purchase of the supply
2514 of natural gas for a term of up to ten (10) years with any public
2515 nonprofit corporation which is organized under the laws of this
2516 state or any other state.

2517 **SECTION 73.** Section 21-27-75, Mississippi Code of 1972, is
2518 brought forward as follows:

2519 21-27-75. (1) The governing authorities of a municipality
2520 are authorized and empowered, in their discretion, to enter into
2521 an interlocal agreement with a rural water association operating
2522 within the corporate limits of the municipality that requires the



2523 association to terminate the water service of any of its customers
2524 who are thirty (30) days or more delinquent in the payment of
2525 charges for sewer services provided by the municipality.

2526 (2) Any agreement entered into under this section shall at a
2527 minimum:

2528 (a) Require the municipality to notify the association
2529 of any customer of the association who also has sewer service
2530 provided by the municipality who is thirty (30) days or more
2531 delinquent in the payment of sewer charges by a method agreeable
2532 to the municipality and the association;

2533 (b) Provide that upon receipt of a notification the
2534 association shall terminate the water service of the named
2535 customer;

2536 (c) Provide that upon satisfaction of the delinquency
2537 and any fees connected with the delinquency and the termination of
2538 water service, the association shall restart the water service of
2539 the customer;

2540 (d) Provide that the municipality shall save and hold
2541 harmless the association against any and all claims based on the
2542 disconnection of water or sewer service and any other damages
2543 resulting from any action taken by the association under an
2544 interlocal agreement entered into under this section.

2545 (3) Upon entering into an interlocal agreement under this
2546 section, the association is authorized to terminate the water
2547 service of any customer delinquent in the payment of sewer charges



2548 to the municipality pursuant to the terms of the interlocal
2549 agreement.

2550 **SECTION 74.** Section 21-27-77, Mississippi Code of 1972, is
2551 brought forward as follows:

2552 21-27-77. (1) A municipality having a population of one
2553 hundred fifty thousand (150,000) as of the most recent decennial
2554 census or more may institute a program to address certain disputed
2555 or delinquent water and sewer customer accounts. The municipality
2556 must adopt rules and procedures to implement the program if
2557 instituted. Such rules may consider the customer's ability to pay
2558 the full amount of the disputed or delinquent claim. In order for
2559 the program to take effect, the mayor of the municipality, the
2560 Municipal Director of Public Works, and Executive Director of the
2561 Mississippi Public Utilities Staff shall mutually approve such
2562 rules and procedures by July 1, 2021. The rules and procedures
2563 shall include, but not be limited to, an itemized summary of the
2564 amount and number of all accounts judged to be disputed or
2565 delinquent. The municipality's authority to compromise doubtful
2566 claims is limited to the following cases:

2567 (a) (i) Instances of error on the part of the
2568 municipality such as equipment failure, process failure or billing
2569 failure;

2570 (ii) Instances of error on the part of the
2571 municipality due to unforeseen circumstance such as damage,
2572 extreme weather-related event, declared disaster or emergency, or



2573 mandatory evacuation, but only to the extent the customer did not
2574 receive the benefit of the water or sewer service; and

2575 (b) Instances where the customer's ability to pay or
2576 the amount of the customer's overdue balance for water and sewer
2577 service can be reasonably adjudged to be uncollectible, in which
2578 case the municipality may utilize an installment payment agreement
2579 to allow the customer additional time to pay a prescribed portion
2580 of the outstanding balance, and as part of the installment payment
2581 plan, to offer the utilization by the municipality of accounting
2582 procedures to move the remaining balance as an uncollectible debt
2583 to a special municipal accounting category of uncollectible or
2584 inactive accounts as outlined in the program rules if the customer
2585 fulfills all terms of the installment plan. The prescribed
2586 portion must require some payment by the customer. The program
2587 must provide that the accounting adjustments under this paragraph
2588 (b) do not result in forgiveness of uncollectible debts.

2589 (2) The municipality may set program parameters to take into
2590 account the principle of collateral estoppel as to its own prior
2591 service, billing or collection actions.

2592 (3) Any utility that participates in the program shall
2593 provide by January 1, 2022, to the Governor, Lieutenant Governor,
2594 Speaker of the House of Representatives, and Mississippi Public
2595 Utilities Staff a report that details the utility's revenue
2596 collection, the number of accounts that have been adjudged
2597 uncollectable, the number of accounts that are participating in



2598 the installment payment plans, the number of accounts that are
2599 overdue, and the effect of the program on the utility's revenue
2600 collection. Such report shall also include the utility's plan to
2601 address any remaining disputed or delinquent claims that have not
2602 been resolved, to provide fair and accurate bills to all of its
2603 customers, and to reduce equipment failure, process failure, and
2604 billing failures in the future.

2605 (4) For the purpose of this section, the Executive Director
2606 of the Mississippi Public Utilities Staff may enter into
2607 professional services contracts to ensure the success of the
2608 program. The municipally owned utility shall reimburse the
2609 Mississippi Public Utilities Staff for such contracts, not to
2610 exceed Two Hundred Thousand Dollars (\$200,000.00) over the
2611 duration of the program.

2612 (5) This section shall stand repealed on July 1, 2023.

2613 **SECTION 75.** Section 21-27-161, Mississippi Code of 1972, is
2614 brought forward as follows:

2615 21-27-161. Sections 21-27-161 through 21-27-191 are for the
2616 purpose of authorizing a cooperative effort by public agencies for
2617 the safe and economical construction and operation of systems for
2618 the collection, transportation, treatment and disposal of wastes,
2619 including sewerage systems and sewage disposal systems, in order
2620 to prevent and control the pollution of the waters in this state.
2621 Said sections may be cited as the "Metropolitan Area Waste
2622 Disposal Act."



2623 **SECTION 76.** Section 21-27-163, Mississippi Code of 1972, is
2624 brought forward as follows:

2625 21-27-163. Words and phrases used in Sections 21-27-161
2626 through 21-27-191 shall have meanings as follows:

2627 (a) "Act" shall mean the Metropolitan Area Waste
2628 Disposal Act [Sections 21-27-161 through 21-27-191], as originally
2629 enacted or as hereafter amended.

2630 (b) "Person" means and includes the State of
2631 Mississippi, a municipality as defined herein, any public agency
2632 as defined herein or any other city, town or political subdivision
2633 or governmental agency of the State of Mississippi or of the
2634 United States of America, or any individual, copartnership,
2635 association, firm, trust, estate or any other entity whatsoever.

2636 (c) "Waterworks" means all works, plants or other
2637 facilities necessary for the purpose of collecting, storing,
2638 treating and transporting water for domestic, municipal,
2639 commercial, industrial, agricultural and manufacturing purposes,
2640 including open channels.

2641 (d) "Water supply system" means pipelines, conduits,
2642 pumping stations and all other structures, devices and appliances
2643 appurtenant thereto, including land and right-of-way thereto, for
2644 use for transporting water to a point of ultimate use.

2645 (e) "Waste" means sewage, industrial waste, municipal
2646 waste, recreational waste and agricultural waste, waste heat and



2647 any other waste that may cause impairment of the quality of the
2648 waters in the state.

2649 (f) "Sewerage system" means pipelines or conduits,
2650 canals, pumping stations and force mains, and all other
2651 structures, devices, facilities and appliances appurtenant
2652 thereto, used for collecting or conducting waste to an ultimate
2653 point for treatment or disposal.

2654 (g) "Treatment facilities" means any plant, disposal
2655 field, lagoon, pumping station, constructed drainage ditch or
2656 surface water intercepting ditch, canal, incinerator, area devoted
2657 to sanitary landfills or other works not specifically mentioned
2658 herein, installed for the purpose of treating, neutralizing,
2659 stabilizing or disposing of waste or facilities to provide cooling
2660 water to collect, control and dispose of waste heat.

2661 (h) "Sewage disposal system" means a system for
2662 disposing of waste, including but not limited to sewerage systems
2663 and treatment facilities, as such terms are defined herein.

2664 (i) The terms "pollution," "waters" or "waters in the
2665 state" shall have meanings as set forth in the Mississippi Air and
2666 Water Pollution Control Law, as now or hereafter amended,
2667 appearing as Section 49-17-1 through Section 49-17-70, Mississippi
2668 Code of 1972.

2669 (j) "Municipality" means any incorporated city having a
2670 population in excess of one hundred fifty thousand (150,000)



2671 according to the most recently completed federal decennial census,
2672 whether operating under general law or under special charter.

2673 (k) "Metropolitan area" means all of the area or
2674 territory lying within the corporate limits of a municipality as
2675 herein defined, whether or not such area or territory be
2676 contiguous, and all area or territory lying not more than ten (10)
2677 miles from the outer boundary of any of the areas or territories
2678 comprising a municipality as herein defined, and all of an
2679 incorporated city or town, any part of which lies within the
2680 aforementioned ten-mile limit.

2681 (l) "Public agency" means any incorporated city or town
2682 lying wholly or partially within a metropolitan area, any state
2683 board or commission owning or operating properties within a
2684 metropolitan area, a district created pursuant to Sections
2685 51-9-101 through 51-9-163, or a political subdivision of the State
2686 of Mississippi lying wholly or partially within a metropolitan
2687 area and having the power to own and operate waterworks, water
2688 supply systems, sewerage systems, treatment facilities or sewage
2689 disposal systems or other facilities or systems for the
2690 collection, transportation, treatment and disposal of waste.

2691 (m) "Metropolitan area plan" means a comprehensive plan
2692 for water quality management and the control and abatement of
2693 pollution within the metropolitan area, consistent with applicable
2694 water quality standards established pursuant to the Federal Water
2695 Pollution Control Act.



2696 (n) "Federal Water Pollution Control Act" shall mean
2697 the Federal Water Pollution Control Act, being 33 USCS 1151 et
2698 seq. as now or hereafter amended, and the Federal Water Pollution
2699 Control Act Amendments of 1972, being P.L. 92-500, 86 Stat. 816 as
2700 now or hereafter amended.

2701 **SECTION 77.** Section 21-27-165, Mississippi Code of 1972, is
2702 brought forward as follows:

2703 21-27-165. A municipality is authorized and empowered to
2704 acquire, construct, improve, enlarge, extend, repair, operate and
2705 maintain one or more sewage disposal systems and make contracts
2706 with any person or any public agency, under the terms of which the
2707 municipality will, within or without the municipality but within
2708 its metropolitan area, collect, transport, treat or dispose of
2709 waste for such person or public agency. A municipality may also
2710 enter into contracts with any person to purchase or sell, by
2711 installments over such term as may be deemed desirable, or
2712 otherwise, any waste collection, transportation, treatment or
2713 sewage disposal facilities or systems. A municipality is also
2714 authorized to enter into operating agreements with any person, for
2715 such terms and upon such conditions as may be deemed desirable,
2716 for the operation of any waste collection, transportation,
2717 treatment or sewage disposal facilities or systems of any person
2718 by the municipality; and a municipality may lease to or from any
2719 person, for such term and upon such conditions as may be deemed



2720 desirable, any waste collection, transportation, treatment or
2721 sewage disposal facilities or systems.

2722 **SECTION 78.** Section 21-27-167, Mississippi Code of 1972, is
2723 brought forward as follows:

2724 21-27-167. A municipality shall have the power and right to
2725 acquire and to own, maintain, use and operate any and all property
2726 of any kind, real, personal or mixed, or any interest therein
2727 within or without the boundaries of its metropolitan area
2728 necessary or convenient to the exercise of the purposes of and the
2729 powers granted by Sections 21-27-161 through 21-27-191. Within
2730 any unincorporated portion of its metropolitan area, a
2731 municipality may acquire such property by exercise of the power of
2732 eminent domain as provided in Chapter 27, Title 11, Mississippi
2733 Code of 1972. Prior to the exercise of the power of eminent
2734 domain within any unincorporated portion of its metropolitan area,
2735 a municipality shall seek and obtain a written agreement with the
2736 public agency or other person having local jurisdiction of such
2737 area for the acquisition of such property. The written agreement
2738 provided for herein for the exercise of the power of eminent
2739 domain shall be spread upon the minutes of said public agency or
2740 person as defined herein.

2741 **SECTION 79.** Section 21-27-169, Mississippi Code of 1972, is
2742 brought forward as follows:

2743 21-27-169. A municipality is authorized to make such
2744 applications and enter into such contracts for financial



2745 assistance in comprehensive planning as may be appropriate under
2746 the Federal Water Pollution Control Act, as now or hereafter
2747 amended; the Federal Water Pollution Control Act Amendments of
2748 1972 (P. L. 92-500); under Chapter 23 and Chapter 26, Title 33,
2749 United States Code; under Chapter 9, Title 40, United States Code
2750 and under any other relevant statutes.

2751 **SECTION 80.** Section 21-27-171, Mississippi Code of 1972, is
2752 brought forward as follows:

2753 21-27-171. A municipality may enter into contract with any
2754 person or public agency situated wholly or partly within its
2755 metropolitan area, whether or not lying wholly or partially within
2756 its boundaries, for any of the purposes authorized by Sections
2757 21-27-161 through 21-27-191. Public agencies and other persons
2758 are hereby authorized to make contracts with a municipality under
2759 which the municipality will make a sewage disposal system
2760 available to a public agency or group of public agencies or to
2761 other persons and furnish waste collection, transportation,
2762 treatment and sewage disposal services by the municipality's
2763 sewage disposal system. The contract may be upon such terms and
2764 for such period of time as the parties may agree and may provide
2765 that it will remain in effect until any bonds issued or to be
2766 issued by the municipality, and any bonds which may be issued to
2767 refund the same are paid; the contract may contain provisions to
2768 assure equitable treatment of persons or public agencies who
2769 contract with the municipality for waste collection,



2770 transportation, treatment and sewage disposal services from the
2771 same sewage disposal system; may contain provisions requiring any
2772 public agency or other person to regulate the quality and strength
2773 of waste to be handled by the sewage disposal system; shall
2774 provide the method of determining the amounts to be paid by a
2775 public agency or other person to the municipality; may provide for
2776 the sale or lease to or use of by the municipality of any sewage
2777 disposal system or any part thereof at the time owned or to be
2778 acquired by a public agency or other person; may provide that the
2779 municipality shall operate any sewage disposal system or part
2780 thereof at the time owned or to be acquired by a public agency or
2781 other person; may provide that a public agency shall have the
2782 right to continued performance of such services after the
2783 amortization of the municipality's investment in the sewage
2784 disposal system during the useful life thereof upon payments of
2785 reasonable charges therefor, reduced to take into consideration
2786 such amortization; and may contain such other provisions and
2787 requirements as the municipality and a public agency or other
2788 person may determine to be appropriate or necessary. A
2789 municipality may also provide in its contract that the
2790 municipality shall have the right to use any streets, alleys and
2791 public ways and places within the jurisdiction of a public agency
2792 or other person during the term of the contract.

2793 **SECTION 81.** Section 21-27-173, Mississippi Code of 1972, is
2794 brought forward as follows:



2795 21-27-173. Payments by a public agency to the municipality
2796 for waste collection, transportation, treatment and sewage
2797 disposal services and facilities may be made from the income of
2798 the public agency's waterworks system or water supply system or
2799 its sewerage system, treatment facilities or sewage disposal
2800 system or of both such systems or of its combined waterworks,
2801 water supply, treatment facilities, sewerage and sewage disposal
2802 systems, as may be prescribed in the contract between the
2803 municipality and the public agency, or as otherwise authorized by
2804 law. Such payments shall constitute an operating expense of the
2805 system or systems whose revenues are thus to be applied. Payments
2806 to be made under the contract by the public agency from the income
2807 of its waterworks system, water supply system, treatment facility,
2808 sewerage system or sewage disposal system or both such systems or
2809 its combined waterworks, water supply, treatment facility,
2810 sewerage and sewage disposal systems shall be subordinate to
2811 amounts required to be paid from the net revenues of such systems
2812 for principal of and interest on bonds of the public agency which
2813 are outstanding at the time of the making of the contract and
2814 which are payable solely from such net revenues unless the
2815 ordinance or resolution authorizing such outstanding bonds of the
2816 public agency expressly reserves the right to accord such contract
2817 payments a priority over such public agency's bond requirements.
2818 No provision of Sections 21-27-161 through 21-27-191 shall be
2819 construed to prohibit any public agency, otherwise permitted by



2820 law to issue bonds, from issuing bonds in the manner provided by
2821 law for the construction, renovation, repair or development of
2822 waste disposal facilities within the jurisdictional limits of the
2823 public agency. Except to the extent provided in Section
2824 21-27-175, neither the municipality nor the holder of any bonds of
2825 the municipality shall have the right to demand payment of the
2826 public agency's obligation out of any funds raised or to be raised
2827 by taxation, but such contracts shall constitute an obligation of
2828 the public agency and shall be binding upon such public agency
2829 according to its terms and shall continue in effect until all
2830 bonds specified therein and refunding bonds issued in lieu of such
2831 bonds and all other obligations thereunder shall have been paid.
2832 Payments made or to be made to a municipality by a public agency
2833 or other person pursuant to a contract for waste collection,
2834 transportation, treatment and sewage disposal services and
2835 facilities shall be determined by the method specified in the
2836 contract and shall not be subject to approval or review by the
2837 public service commission.

2838 **SECTION 82.** Section 21-27-175, Mississippi Code of 1972, is
2839 brought forward as follows:

2840 21-27-175. Any public agency having taxing powers, other
2841 than a county or a municipality as herein defined, is authorized
2842 to levy a special ad valorem tax not to exceed four (4) mills upon
2843 all taxable property within its geographical limits to pay all or
2844 a portion of the payments to be made by that public agency under a



2845 contract between the public agency and a municipality and if the
2846 contract as authorized by the governing body of the public agency
2847 so provides, then the contract shall constitute an obligation
2848 against the taxing power of the public agency to the extent
2849 therein provided. The special ad valorem tax millage authorized
2850 by Sections 21-27-161 to 21-27-191 shall not be reimbursable by
2851 the state under the provisions otherwise made for reimbursements
2852 under the homestead exemption laws.

2853 The proceeds derived from two (2) mills of the levy
2854 authorized herein shall be included in the ten percent (10%)
2855 increase limitation under Section 27-39-321, and the proceeds
2856 derived from any additional millage levied hereunder in excess of
2857 two (2) mills shall be excluded from such limitation for the first
2858 year of such additional levy and shall be included within such
2859 limitation in any year thereafter.

2860 **SECTION 83.** Section 21-27-177, Mississippi Code of 1972, is
2861 brought forward as follows:

2862 21-27-177. Whenever a public agency and a municipality shall
2863 have executed a contract under Sections 21-27-161 through
2864 21-27-191 and the payments thereunder are to be made either wholly
2865 or partly from the revenues of the public agency's waterworks
2866 system, water supply system, treatment facility, sewerage system
2867 or sewage disposal system or from both systems or a combination of
2868 both systems, the duty is hereby imposed on the public agency to
2869 establish and maintain and from time to time to adjust the rates



2870 charged by the public agency for the services of such system or
2871 systems, to the end that the revenues therefrom together with any
2872 taxes levied in support thereof will be sufficient at all times to
2873 pay: (a) the expense of operating and maintaining such system;
2874 (b) all of the public agency's obligations to the municipality
2875 under the contract; and (c) all of the public agency's obligations
2876 under and in connection with revenue bonds theretofore issued, or
2877 which may be issued thereafter secured by revenues of such system
2878 or systems. The contract may require the use of consulting
2879 engineers and financial experts to advise the public agency
2880 whether and when such rates are to be adjusted.

2881 **SECTION 84.** Section 21-27-179, Mississippi Code of 1972, is
2882 brought forward as follows:

2883 21-27-179. For the purpose of acquiring, constructing,
2884 improving, enlarging, extending and repairing a sewage disposal
2885 system or sewage disposal systems, a municipality is authorized to
2886 issue bonds payable from and secured by a pledge of all or any
2887 part of revenues under any contract or contracts it enters into
2888 under Sections 21-27-161 to 21-27-191 and from all or any part of
2889 any revenues derived from the operation of the waterworks system,
2890 water supply system, treatment facility, sewerage system or sewage
2891 disposal system and pledged for such purpose by the municipality.
2892 Said bonds shall be in such form and denomination as prescribed by
2893 the governing body of the municipality. Such bonds may be serial
2894 or term; redeemable, with or without premium, or nonredeemable;



2895 registered or coupon bonds with registration privileges as to
2896 either principal and interest; principal only or both; shall bear
2897 interest at a rate or rates to be determined pursuant to the sale
2898 of the bonds; and shall be payable at such time or times and shall
2899 mature at such time or times not exceeding the said estimated life
2900 of the contemplated system or improvement, but in no event
2901 exceeding thirty (30) years from their date, and at such place or
2902 places as shall be prescribed in the bond resolution authorizing
2903 their issuance; provided, however, that any bond issue to be
2904 awarded and sold to the United States of America or any agency
2905 thereof shall mature at such time or times, not to exceed
2906 thirty-five (35) years, as shall be prescribed in the ordinance
2907 authorizing their issuance. Any provisions of the general laws to
2908 the contrary notwithstanding, any bonds and interest coupons
2909 issued pursuant to the authority of Sections 21-27-161 to
2910 21-27-191 shall possess all the qualities of negotiable
2911 instruments. The bonds and the interest coupons shall be executed
2912 in such manner and shall be substantially in the form prescribed
2913 in the authorizing resolution. In case any of the officers whose
2914 signatures or countersignatures appear on the bonds or interest
2915 coupons shall cease to be such officers before delivery of such
2916 bonds, such signatures or countersignatures shall nevertheless be
2917 valid and sufficient for all purposes the same as if they had
2918 remained in office until such delivery. No bond shall bear more
2919 than one (1) rate of interest; each bond shall bear interest from



2920 its date to its stated maturity date at the interest rate
2921 specified in the bid; all bonds of the same maturity shall bear
2922 the same rate of interest from date to maturity; all interest
2923 accruing on such bonds so issued shall be payable semiannually or
2924 annually, except that the first interest coupon attached to any
2925 such bond may be for any period not exceeding one (1) year.

2926 No interest payment shall be evidenced by more than one (1)
2927 coupon and neither cancelled nor supplemental coupons shall be
2928 permitted; the lowest interest rate specified for any bonds issued
2929 shall not be less than seventy percent (70%) of the highest rate
2930 specified for the same bond issue. Such bonds shall not bear a
2931 greater overall maximum interest rate to maturity than that
2932 allowed in Section 75-17-103, Mississippi Code of 1972. Each
2933 interest rate specified in any bid must be in multiples of
2934 one-eighth of one percent ($1/8$ of 1%) or in multiples of one-tenth
2935 of one percent ($1/10$ of 1%). If serial bonds, such bonds shall
2936 mature annually, and the first maturity date thereof shall not be
2937 more than five (5) years from the date of such bonds. Such bonds
2938 shall be legal investments for trustees and other fiduciaries, and
2939 for savings banks, trust companies and insurance companies
2940 organized under the laws of the State of Mississippi. The bonds
2941 and interest coupons shall be exempt from all state, county,
2942 municipal and other taxation under the laws of the State of
2943 Mississippi. No bond issued pursuant to Sections 21-27-161 to
2944 21-27-191 shall constitute an indebtedness of a municipality



2945 within the meaning of any statutory or charter restriction or
2946 limitation upon indebtedness. Such bonds shall be sold on sealed
2947 bids at public sale in the manner provided by Section 31-19-25, as
2948 now or hereafter amended, upon such terms as the governing
2949 authorities of the municipality may determine, not inconsistent
2950 with the provisions of Sections 21-27-161 to 21-27-191, but no
2951 sale shall be made at a price so low as to require the payment of
2952 interest on the money received therefor at more than that allowed
2953 in Section 75-17-103, Mississippi Code of 1972, computed with
2954 relation to the absolute maturity of the bonds, in accordance with
2955 standard tables of bond values, excluding from such computation
2956 the amount of any premium to be paid on redemption of any bonds
2957 prior to maturity. Sections 21-27-161 to 21-27-191 shall be full
2958 and complete authority for the issuance of the bonds provided for
2959 herein, and no restriction or limitation otherwise prescribed by
2960 law shall apply herein, nor shall such bonds constitute an
2961 indebtedness of the municipality within the meaning of any
2962 constitutional or statutory limitation.

2963 **SECTION 85.** Section 21-27-181, Mississippi Code of 1972, is
2964 brought forward as follows:

2965 21-27-181. While any such bonds are outstanding, it shall be
2966 the duty of the governing body of the municipality to fix,
2967 maintain and collect rates and charges for services furnished or
2968 made available by the sewage disposal system, adequate to pay
2969 maintenance and operation costs of the expenses allocable to the



2970 sewage disposal system, payment of principal of and interest on
2971 such bonds, and to provide and maintain the funds created by the
2972 resolution authorizing the bonds. Interest to accrue on the bonds
2973 and administrative expenses to estimated date when the sewage
2974 disposal system will become revenue producing and reserve funds
2975 created by the resolution authorizing the bonds may be set aside
2976 out of bond proceeds.

2977 **SECTION 86.** Section 21-27-183, Mississippi Code of 1972, is
2978 brought forward as follows:

2979 21-27-183. All bonds issued pursuant to Sections 21-27-161
2980 through 21-27-191 shall be validated as now provided by law by
2981 Sections 31-13-1 through 31-13-11.

2982 **SECTION 87.** Section 21-27-185, Mississippi Code of 1972, is
2983 brought forward as follows:

2984 21-27-185. Proceeds from the sale of bonds may be invested,
2985 pending their use, in such certificates of deposit as are
2986 specified in the resolution authorizing the issuance of the bonds
2987 or the trust indenture securing them, and the earnings on such
2988 investments applied as provided in such resolution or trust
2989 indenture.

2990 **SECTION 88.** Section 21-27-187, Mississippi Code of 1972, is
2991 brought forward as follows:

2992 21-27-187. All bonds issued under Sections 21-27-161 through
2993 21-27-191 shall be and are hereby exempt from inclusion in debts
2994 in determining whether additional bonds may be issued by such



2995 municipality and are declared to be legal and authorized
2996 investments for banks, savings banks, trust companies, building
2997 and loan associations, savings and loan associations, insurance
2998 companies, fiduciaries, trustees and for the sinking fund of
2999 municipalities, towns, villages, school districts or any other
3000 political corporation or subdivision of the State of Mississippi.

3001 **SECTION 89.** Section 21-27-189, Mississippi Code of 1972, is
3002 brought forward as follows:

3003 21-27-189. A municipality, as defined in Section 21-27-163,
3004 is authorized and empowered, in the discretion of its governmental
3005 authorities, to exercise the following powers and authority within
3006 the area and territories comprising the metropolitan area of which
3007 it is a part:

3008 (a) To operate and manage sewerage systems, sewage
3009 treatment facilities and sewage disposal systems and related
3010 facilities serving the metropolitan area in conformance with the
3011 metropolitan area plan.

3012 (b) To construct, operate and maintain sewerage
3013 systems, sewage treatment facilities and sewage disposal systems
3014 in the manner and to the extent required by the metropolitan area
3015 plan.

3016 (c) To accept and utilize grants and other funds from
3017 any source for waste treatment management purposes.

3018 (d) To establish and maintain rates and charges for the
3019 use of the services of such sewerage systems, sewage treatment



3020 facilities and sewage disposal systems within the metropolitan
3021 area, and from time to time to adjust such rates, to the end that
3022 the revenues therefrom will be sufficient at all times to pay the
3023 expenses of operating and maintaining such works, facilities and
3024 systems and all of the municipality's obligations under any
3025 contract or bond resolution with respect thereto.

3026 (e) To incur short and long-term indebtedness under the
3027 provisions of Sections 21-27-161 through 21-27-191 or other
3028 applicable statutes.

3029 (f) To adopt rules and regulations necessary to carry
3030 out the implementation of the metropolitan area plan and to assure
3031 the payment of each participating person or public agency of its
3032 proportionate share of treatment costs.

3033 (g) To refuse to receive any waste from any public
3034 agency or subdivision thereof or any other person which does not
3035 comply with the provisions of the metropolitan area plan
3036 applicable to the particular area within which such public agency
3037 or subdivision thereof or any other person is located.

3038 (h) To accept industrial waste for treatment and to
3039 require the pretreatment of same when within the opinion of the
3040 municipality such pretreatment is necessary.

3041 (i) To adopt all necessary and reasonable rules and
3042 regulations to carry out and effectuate any waste treatment plan
3043 adopted for the metropolitan area.



3044 (j) To require by ordinance or by contract with a
3045 public agency or other person that all waste within the
3046 metropolitan area be disposed of through sewerage systems,
3047 treatment facilities and sewage disposal systems which comprise a
3048 part of the metropolitan area plan, to the extent that the same
3049 may be available, but no public agency shall be precluded from
3050 constructing, operating and maintaining its own sewerage system if
3051 the same be a part of the metropolitan area plan.

3052 **SECTION 90.** Section 21-27-191, Mississippi Code of 1972, is
3053 brought forward as follows:

3054 21-27-191. Sections 21-27-161 through 21-27-191 are
3055 cumulative of other statutes now or hereafter enacted relating to
3056 the issuance of bonds; the collection, transportation, treatment
3057 or disposal of wastes; and the design, construction, acquisition
3058 or approval of facilities for such purposes, and the municipality
3059 may exercise all presently held powers in the furtherance of said
3060 sections.

3061 **SECTION 91.** Section 41-67-1, Mississippi Code of 1972, is
3062 brought forward as follows:

3063 41-67-1. (1) This chapter shall be known and may be cited
3064 as the "Mississippi Individual On-Site Wastewater Disposal System
3065 Law."

3066 (2) It is the purpose of the Legislature through this
3067 chapter to protect human health and the environment while
3068 providing for reasonable use of individual on-site wastewater



3069 disposal systems. The Legislature finds that continued
3070 installation and operation of individual on-site wastewater
3071 disposal systems in a faulty or improper manner, in a manner that
3072 lacks essential maintenance for the system, or in areas where
3073 unsuitable soil and population density adversely affect the
3074 efficiency and functioning of these systems, has a detrimental
3075 effect on the public health and welfare and the environment
3076 through contamination of land, groundwater and surface waters.
3077 The Legislature, therefore, expresses a general preference for the
3078 installation and operation of centralized wastewater treatment
3079 systems in Mississippi, where feasible. The Legislature
3080 recognizes, however, that individual on-site wastewater treatment
3081 and disposal systems help meet the needs of the state's citizens,
3082 especially in rural locations, and can be rendered ecologically
3083 safe and protective of the public health if the systems are
3084 designed, installed, constructed, maintained and operated
3085 properly. It is the intent of the Legislature to allow the
3086 continued installation, use and maintenance of individual on-site
3087 wastewater disposal systems in a manner that will not jeopardize
3088 public health and welfare or the environment.

3089 **SECTION 92.** Section 41-67-2, Mississippi Code of 1972, is
3090 brought forward as follows:

3091 41-67-2. For purposes of this chapter, the following words
3092 shall have the meanings ascribed herein unless the context clearly
3093 indicates otherwise:



3094 (a) "Advanced treatment system" means an individual
3095 on-site wastewater treatment system that complies with Section
3096 41-67-10.

3097 (b) "Board" means the Mississippi State Board of
3098 Health.

3099 (c) "Centralized wastewater treatment system" means a
3100 wastewater collection and treatment system that consists of
3101 collection sewers and a centralized treatment facility other than
3102 an individual on-site wastewater disposal system.

3103 (d) "Certified installer" means any person who has met
3104 the requirements of Section 41-67-25.

3105 (e) "Certified manufacturer" means any person
3106 registered with the department who holds a written certification
3107 issued by the department allowing the manufacturer to sell on-site
3108 wastewater products in the state.

3109 (f) "Certified professional evaluator" means any person
3110 who has met the requirements of Section 41-67-37 or a licensed
3111 professional engineer.

3112 (g) "Certified pumper" means any person registered with
3113 the department who holds a written certification issued by the
3114 department allowing the person to engage in the removal and
3115 disposal of sludge, grease and waste and who has met the
3116 requirements of Section 41-67-39.

3117 (h) "Cluster system" means a wastewater collection and
3118 treatment system under some form of common or private ownership



3119 and management that provides treatment and dispersal/discharge of
3120 wastewater from two (2) or more homes or buildings but less than a
3121 subdivision.

3122 (i) "Conventional system" means an individual on-site
3123 wastewater disposal system consisting of a septic tank and
3124 subsurface disposal field.

3125 (j) "Department" means the Mississippi State Department
3126 of Health.

3127 (k) "Decentralized wastewater treatment system" means
3128 any commercial wastewater treatment for fewer than ten (10) lots.

3129 (l) "Effluent" means sewage, water, or other liquid,
3130 partially or completely treated or in its natural state, flowing
3131 out of a septic tank, advanced treatment system, or other
3132 treatment system or system component by the department.

3133 (m) "Final approval" means an issuance of a document
3134 from the department stating that a determination has been made by
3135 the department that the individual on-site wastewater disposal
3136 system recommended/designed has been installed and fulfills all
3137 requirements under this chapter or any variance that has been
3138 granted by the department.

3139 (n) "Generator" means any person whose act or process
3140 produces sewage or other material suitable for disposal in an
3141 individual on-site wastewater disposal system.

3142 (o) "Individual on-site wastewater disposal system"
3143 means a sewage treatment and effluent disposal system that does



3144 not discharge into waters of the state, that serves only one (1)
3145 legal tract, that accepts only residential waste and similar waste
3146 streams maintained on the property of the generator, and that is
3147 designed and installed in accordance with this law and regulations
3148 of the board.

3149 (p) "Notice of intent" means notification by an
3150 applicant to the department prior to construction and submission
3151 of all required information, which is used by the department to
3152 initiate the process to evaluate the property for the suitability
3153 of an individual on-site wastewater disposal system.

3154 (q) "Performance-based system" means an individual
3155 on-site wastewater disposal system designed to meet standards
3156 established to designate a level of treatment of wastewater that
3157 an individual on-site wastewater disposal system must meet,
3158 including, but not limited to, biochemical oxygen demand, total
3159 suspended solids, nutrient reduction and fecal coliform.

3160 (r) "Permit/recommendation" means that a person has
3161 filed a notice of intent with the department and the department
3162 has made a determination of the suitability of the property for
3163 the use of an individual on-site wastewater disposal system.

3164 (s) "Person" means any individual, trust, firm,
3165 joint-stock company, public or private corporation (including a
3166 government corporation), partnership, association, state, or any
3167 agency or institution thereof, municipality, commission, political
3168 subdivision of a state or any interstate body, and includes any



3169 officer or governing or managing body of any municipality,
3170 political subdivision, or the United States or any officer or
3171 employee thereof.

3172 (t) "Plot plan" means a property drawing reflecting
3173 property lines, site features (such as ponds, wells, etc.),
3174 dwellings and any other intended uses of the property therein
3175 including encumbrances.

3176 (u) "Property of the generator" means land owned by or
3177 under permanent legal easement or lease to the generator.

3178 (v) "Qualified homeowner maintenance provider" means
3179 the current owner of a specific residence where that homeowner
3180 resides and where the homeowner has met the requirements of the
3181 rules and regulations of the department to provide maintenance for
3182 his or her system.

3183 (w) "Licensed professional engineer" means any person
3184 who has met the requirements under Section 73-13-23(1) and who has
3185 been issued a certificate of registration as a professional
3186 engineer.

3187 (x) "Septage" means the liquid, solid, and semisolid
3188 material that results from wastewater pretreatment in a septic
3189 tank, portable toilet, or grease trap, which must be pumped,
3190 hauled, treated and disposed of properly.

3191 (y) "Subdivision" means any tract or combination of
3192 adjacent tracts of land that is subdivided into ten (10) or more



3193 tracts, sites or parcels for the purpose of commercial or
3194 residential development.

3195 **SECTION 93.** Section 41-67-3, Mississippi Code of 1972, is
3196 brought forward as follows:

3197 41-67-3. (1) The board and/or the department shall have the
3198 following duties and responsibilities:

3199 (a) To exercise general supervision over the design,
3200 installation, operation and maintenance of individual on-site
3201 wastewater disposal systems, decentralized wastewater treatment
3202 systems and cluster systems;

3203 (b) To adopt, modify, repeal and promulgate rules and
3204 regulations, after due notice and hearing, and where not otherwise
3205 prohibited by federal or state law, to make exceptions to, to
3206 grant exemptions from and to enforce rules and regulations
3207 implementing or effectuating the duties of the board under this
3208 chapter to protect the public health. The board may grant
3209 variances from rules and regulations adopted under this chapter,
3210 including requirements for buffer zones, or from setbacks required
3211 under Section 41-67-7 where the granting of a variance shall not
3212 subject the public to unreasonable health risks or jeopardize
3213 environmental resources;

3214 (c) To provide or deny certification for persons
3215 engaging in the business for hire of the installation, operation
3216 or maintenance of individual on-site wastewater disposal systems



3217 and persons engaging in the removal and disposal of the sludge and
3218 liquid waste from those systems;

3219 (d) To suspend or revoke certifications issued to
3220 persons engaging in the business for hire of the installation,
3221 operation or maintenance of individual on-site wastewater disposal
3222 systems or persons engaging in the removal and disposal of the
3223 sludge and liquid waste from those systems, when it is determined
3224 the person has violated this chapter or applicable rules and
3225 regulations;

3226 (e) To require the submission of information deemed
3227 necessary by the department to determine the suitability of
3228 individual lots for individual on-site wastewater disposal systems
3229 for the purpose of commercial or residential development; and

3230 (f) To adopt, modify, repeal and promulgate rules and
3231 regulations, after due notice and hearing, and where not otherwise
3232 prohibited by federal or state law, as necessary to determine the
3233 suitability of individual on-site wastewater disposal systems in
3234 subdivisions.

3235 (2) To assure the effective and efficient administration of
3236 this chapter, the board shall adopt rules governing the design,
3237 construction or installation, operation and maintenance of
3238 individual on-site wastewater disposal systems, including rules
3239 concerning the:

3240 (a) Review and approval of individual on-site
3241 wastewater disposal systems in accordance with Section 41-67-6;



3242 (b) Certification of installers;
3243 (c) Certification of pumpers;
3244 (d) Certification of manufacturers;
3245 (e) Certification of professional evaluators; and
3246 (f) Creation of regulations that authorize the original
3247 and any subsequent homeowner to be trained by certified installers
3248 as defined in Section 41-67-25(2) or other factory representatives
3249 in order to educate the homeowner with the necessary knowledge to
3250 provide maintenance to the homeowner's system; no fees shall be
3251 charged to the homeowner for such training, thus allowing the
3252 homeowner to meet the requirements of Section 41-67-7(5).

3253 (3) In addition, the board shall adopt rules establishing
3254 performance standards for individual on-site wastewater disposal
3255 systems for single family residential generators and rules
3256 concerning the operation and maintenance of individual on-site
3257 wastewater disposal systems designed to meet those standards. The
3258 performance standards shall be consistent with the federal Clean
3259 Water Act, maintaining the wastes on the property of the generator
3260 and protection of the public health. Rules for the operation and
3261 maintenance of individual on-site wastewater disposal systems
3262 designed to meet performance standards shall include rules
3263 concerning the following:

3264 (a) A standard application form and requirements for
3265 supporting documentation;

3266 (b) Application review;



- 3267 (c) Approval or denial of authorization for proposed
3268 systems;
- 3269 (d) Requirements, as deemed appropriate by the board,
3270 for annual renewal of authorization;
- 3271 (e) Enforcement of the requirements and conditions of
3272 authorization; and
- 3273 (f) Inspection, monitoring, sampling and reporting on
3274 the performance of the system.

3275 Any system proposed for authorization in accordance with
3276 performance standards must be designed and certified by a licensed
3277 professional engineer in the State of Mississippi and must be
3278 authorized by the department before installation.

3279 (4) To the extent practicable, all rules and regulations
3280 adopted under this chapter shall give maximum flexibility to
3281 persons installing individual on-site wastewater disposal systems
3282 and all options consistent with the federal Clean Water Act,
3283 consistent with maintaining the wastes on the property of the
3284 generator and consistent with protection of the public health. In
3285 addition, all rules and regulations, to the extent practicable,
3286 shall encourage the use of economically feasible systems,
3287 including all techniques and technologies for individual on-site
3288 wastewater disposal.

3289 (5) All regulations shall be applied uniformly in all areas
3290 of the state and shall take into consideration and make provision



3291 for different types of soil in the state when performing soil and
3292 site evaluations.

3293 **SECTION 94.** Section 41-67-4, Mississippi Code of 1972, is
3294 brought forward as follows:

3295 41-67-4. (1) The department shall determine the feasibility
3296 of establishing centralized wastewater treatment systems upon the
3297 submission by the developer of a preliminary design and
3298 feasibility study prepared by a licensed professional engineer.
3299 The developer may request and obtain a hearing before the board if
3300 the developer is dissatisfied with the department's determination
3301 of feasibility. The determination that a centralized wastewater
3302 treatment system must be established shall be made without regard
3303 to whether the establishment of a centralized wastewater treatment
3304 system is authorized by law or is subject to approval by one or
3305 more state or local government or public bodies. Whenever a
3306 developer requests a determination of feasibility, the department
3307 must make the determination within thirty (30) days after receipt
3308 of the preliminary design and feasibility study from the
3309 developer. The department shall state in writing the reasons for
3310 its determination. If the department does not make a
3311 determination within thirty (30) days, all sites within the
3312 subdivision shall be approved, if a certified installer attests or
3313 a department environmentalist determines that each site can be
3314 adequately served by an individual on-site wastewater disposal
3315 system.



3316 (2) Where subdivisions are proposed that are composed of
3317 fewer than thirty-five (35) building sites, and no centralized
3318 wastewater treatment system is available, the department may waive
3319 the requirement for a feasibility study. If the feasibility study
3320 is waived, all sites within the subdivision shall be approved, if
3321 a certified installer attests or a department environmentalist
3322 determines that each site can be adequately served by an
3323 individual on-site wastewater disposal system.

3324 (3) No feasibility study or centralized wastewater treatment
3325 system shall be required for subdivisions designed, laid out,
3326 platted or partially constructed before July 1, 1988, or for any
3327 subdivision that was platted and recorded during the period from
3328 July 1, 1995, through June 30, 1996.

3329 (4) "Feasibility study" means a written evaluation and
3330 analysis of the potential of a proposed project that is based on
3331 investigation and research by a licensed professional engineer to
3332 give cost comparison between centralized or decentralized
3333 treatment and disposal and individual on-site wastewater disposal
3334 systems.

3335 **SECTION 95.** Section 41-67-5, Mississippi Code of 1972, is
3336 brought forward as follows:

3337 41-67-5. (1) No owner, lessee or developer shall construct
3338 or place any mobile, modular or permanently constructed residence,
3339 building or facility, which may require the installation of an
3340 individual on-site wastewater disposal system, without having



3341 first submitted a notice of intent to the department. Upon
3342 receipt of a notice of intent, the department shall provide the
3343 owner, lessee or developer with complete information on individual
3344 on-site wastewater disposal systems, including, but not limited
3345 to, applicable rules and regulations regarding the design,
3346 installation, operation and maintenance of individual on-site
3347 wastewater disposal systems and known requirements of lending
3348 institutions for approval of the systems.

3349 (2) No public utility supplying water shall make connection
3350 to any dwelling, house, mobile home or residence without the prior
3351 written approval of the department certifying that the plan for
3352 the sewage treatment and disposal system at the location of the
3353 property complies with this chapter. Connections of water
3354 utilities may be made during construction if the department has
3355 approved a plan for a sewage treatment and disposal system and the
3356 owner of the property has agreed to have the system inspected and
3357 approved by the department before the use or occupancy of the
3358 property.

3359 (3) The department shall furnish to the county tax assessor
3360 or collector, upon request, the name and address of the person
3361 submitting a notice of intent and the section, township and range
3362 of the lot or tract of land on which the individual on-site
3363 wastewater disposal system will be installed.

3364 **SECTION 96.** Section 41-67-6, Mississippi Code of 1972, is
3365 brought forward as follows:



3366 41-67-6. (1) Nothing in this chapter shall preclude a
3367 certified professional evaluator or licensed professional engineer
3368 from providing services relating to the design of an individual
3369 on-site wastewater disposal system to comply with this chapter,
3370 except for performance-based systems as specified in Section
3371 41-67-3(3). A certified professional evaluator or licensed
3372 professional engineer shall notify the department in writing of
3373 those services being provided, including the type of treatment,
3374 the type of disposal, and the property address for the treatment
3375 and disposal system. Construction or installation shall not begin
3376 before authorization by the department. The department shall
3377 respond within ten (10) business days with authorization that the
3378 certified professional evaluator or licensed professional engineer
3379 fulfills the requirements of the law.

3380 (2) Within five (5) working days following receipt of the
3381 notice of intent and plot plan by an owner, lessee or developer of
3382 any lot or tract of land, the department shall conduct a soil and
3383 site evaluation, except in cases where a certified professional
3384 evaluator or licensed professional engineer provides services
3385 relating to the design, construction or installation of an
3386 individual on-site wastewater disposal system to comply with this
3387 chapter. All regulations shall be applied uniformly in all areas
3388 of the state and shall take into consideration and make provision
3389 for different types of soil in the state when performing soil and
3390 site evaluations. Within ten (10) additional working days, the



3391 department shall make recommendations to the owner, lessee or
3392 developer of the type or types of individual on-site wastewater
3393 disposal systems suitable for installation on the lot or tract,
3394 unless there are conditions requiring further investigation that
3395 are revealed in the initial evaluation. In making recommendations
3396 on the type or types of individual on-site wastewater disposal
3397 systems suitable for installation on a lot or tract, personnel of
3398 the department shall use best professional judgment based on rules
3399 and regulations adopted by the board, considering the type or
3400 types of systems which are installed and functioning on lots or
3401 tracts near the subject lot or tract. To the extent practicable,
3402 the recommendations shall give the owner, lessee or developer
3403 maximum flexibility and all options consistent with the federal
3404 Clean Water Act, consistent with maintaining the wastes on the
3405 property of the generator and consistent with protection of the
3406 public health. The system or systems recommended shall be
3407 environmentally sound and cost-effective. The department, a
3408 licensed professional engineer or a certified professional
3409 evaluator shall provide complete information, including all
3410 applicable requirements and regulations on all systems
3411 recommended. The owner, lessee or developer shall have the right
3412 to choose among systems. The department shall provide the owner,
3413 lessee or developer with a permit/recommendation that specifies
3414 all types of individual on-site wastewater disposal systems that
3415 are suitable for installation on the lot or tract.



3416 (3) Within thirty (30) days of receipt of a request for
3417 determination of suitability of individual on-site wastewater
3418 disposal systems in a subdivision, the department shall advise the
3419 developer in writing either that all necessary information needed
3420 for determination of suitability has been received or state the
3421 additional information needed by the department for determination
3422 of suitability.

3423 (4) Whenever a developer requests a determination of
3424 suitability of individual on-site wastewater disposal systems in a
3425 subdivision, the department must make the determination within
3426 thirty (30) days after receipt of all necessary information needed
3427 for the determination of suitability from the developer. The
3428 department shall state in writing the reasons for its
3429 determination.

3430 (5) (a) The certified installer shall notify the department
3431 at least twenty-four (24) hours before beginning installation of
3432 an individual on-site wastewater disposal system and, at that
3433 time, schedule a time for inspection of the system with the
3434 appropriate county department of health.

3435 (b) A certified installer, or designated agent thereof,
3436 shall not cover his work with soil or other surface material
3437 unless the installer has received authorization to cover the
3438 system after an inspection by a department environmentalist, or
3439 unless a department environmentalist does not arrive for
3440 inspection within thirty (30) minutes of the designated and agreed



3441 upon time, in which case a certified installer, or designated
3442 agent thereof, may submit an affidavit of proper installation to
3443 the department for final approval.

3444 (6) A person may not design, construct or install, or cause
3445 to be designed, constructed or installed an individual on-site
3446 wastewater disposal system that does not comply with this chapter
3447 and rules and regulations of the board.

3448 (7) Any lot or tract that is two (2) acres or larger shall
3449 be exempt from the requirements of this chapter and regulations of
3450 the department relating to approval of individual on-site
3451 wastewater disposal systems by the department, and shall be exempt
3452 from the provisions of Section 41-67-5(2), provided that:

3453 (a) All wastewater is contained on the lot or tract;

3454 (b) No watercourse, as defined in Section 51-3-3(h), of
3455 Mississippi or the United States is impacted; and

3456 (c) The person who installed the individual on-site
3457 wastewater disposal system provides the department with a signed
3458 affidavit attesting that the requirements of paragraphs (a) and
3459 (b) are met.

3460 **SECTION 97.** Section 41-67-7, Mississippi Code of 1972, is
3461 brought forward as follows:

3462 41-67-7. (1) Approval of the design, construction or
3463 installation of an individual on-site wastewater disposal system
3464 by the department is required, except as otherwise provided in
3465 Section 41-67-6(7). Upon completion of installation of the



3466 system, the department shall approve the design, construction or
3467 installation of that system, as requested, if the system is
3468 designed, constructed and installed, as the case may be, in
3469 accordance with the rules and regulations of the board. Whenever
3470 a person requests approval of an individual on-site wastewater
3471 disposal system and has met the requirements in subsection (3) of
3472 this section, the department must approve or disapprove the
3473 request within five (5) working days. If the department
3474 disapproves the request, the department shall state in writing the
3475 reasons for the disapproval. If the department does not respond
3476 to the request within ten (10) calendar days, the request for
3477 approval of the individual on-site wastewater disposal system
3478 shall be deemed approved.

3479 (2) Individual on-site wastewater disposal systems shall be
3480 considered acceptable, provided the following requirements are
3481 met:

3482 (a) Centralized wastewater treatment systems are not
3483 available or feasible;

3484 (b) The existing disposal systems in the area are
3485 functioning satisfactorily;

3486 (c) Soil types, soil texture, seasonal water tables and
3487 other limiting factors are satisfactory for underground
3488 absorption;

3489 (d) Any private water supply is located at a higher
3490 elevation or it must be properly protected, and at least fifty



3491 (50) feet from the individual on-site wastewater disposal system
3492 and at least one hundred (100) feet from the disposal field of the
3493 system; and

3494 (e) The systems meet applicable water quality
3495 requirements of Section 41-67-10.

3496 (3) After construction or installation of the individual
3497 on-site wastewater disposal system, the property owner or his
3498 agent shall provide a final approval request containing the
3499 following to the department:

3500 (a) A signed affidavit from the installer that the
3501 system was installed in compliance with all requirements,
3502 regulations and permit conditions applicable to the system
3503 installed; and

3504 (b) For any advanced treatment system, an affidavit
3505 from the property owner agreeing to a continuing maintenance
3506 agreement on the installed system at the end of the required
3507 manufacturer's maintenance agreement.

3508 (4) If any person or certified installer fails to obtain
3509 final approval or submit an affidavit of proper installation to
3510 the department in the installation of the system, the board, after
3511 due notice and hearing, may levy an administrative fine not to
3512 exceed Ten Thousand Dollars (\$10,000.00). Each wastewater system
3513 installed not in compliance with this chapter or applicable rules
3514 and regulations of the board may be considered a separate offense.



3515 (5) The property owner, if not a qualified homeowner
3516 maintenance provider, shall keep a continuing maintenance
3517 agreement with a certified installer on all advanced treatment
3518 systems in perpetuity. Any person violating this subsection shall
3519 be subject to the penalties and damages as provided in Section
3520 41-67-28(5).

3521 **SECTION 98.** Section 41-67-9, Mississippi Code of 1972, is
3522 brought forward as follows:

3523 41-67-9. (1) All existing individual on-site wastewater
3524 disposal systems on July 1, 2014, shall be grandfathered in until
3525 a valid complaint is registered with a county department of health
3526 or until a property owner requests an inspection by the
3527 department.

3528 (2) All existing individual on-site wastewater disposal
3529 systems shall be considered acceptable provided the following
3530 requirements are met:

3531 (a) The existing individual on-site wastewater disposal
3532 system and all treated effluent is contained on the property of
3533 the generator;

3534 (b) No evidence that any insufficiently treated
3535 effluent is leaving the property of the generator or has been
3536 seeping to the surface of the ground;

3537 (c) Centralized wastewater treatment systems are not
3538 available;



3539 (d) If a private water supply well is present, the well
3540 should be located at a higher elevation than the disposal system
3541 and is protected from surface contamination by a concrete slab of
3542 a thickness of at least four (4) inches extending at least two (2)
3543 feet in all directions from the well casing; and

3544 (e) If an advanced treatment system is used, the
3545 property owner shall be required to contact an authorized
3546 representative of a certified manufacturer of the specific
3547 advanced treatment system to provide a continuous maintenance
3548 agreement or provide the property owner training to become a
3549 qualified homeowner maintenance provider.

3550 (3) Owners of property on which an existing individual
3551 on-site wastewater disposal system does not meet the requirements
3552 of subsection (2) of this section shall be required by the
3553 department to meet Section 41-67-6 or Section 41-67-21.

3554 **SECTION 99.** Section 41-67-10, Mississippi Code of 1972, is
3555 brought forward as follows:

3556 41-67-10. (1) Advanced treatment systems may be installed
3557 only if they have been tested and are listed by an American
3558 National Standards Institute (ANSI) third-party certifying program
3559 at the time of installation. Advanced treatment systems shall be
3560 in compliance with standards for a Class I system as defined by
3561 the most current revision of American National Standards
3562 Institute/National Sanitation Foundation (ANSI/NSF) International
3563 Standard Number 40, which are incorporated by reference. An



3564 approved ANSI third-party certifying program shall comply with the
3565 following provisions for systems which it has certified to be
3566 installed in Mississippi:

3567 (a) Be accredited by the American National Standards
3568 Institute;

3569 (b) Have established procedures which send
3570 representatives to distributors in Mississippi on a recurring
3571 basis to conduct evaluations to assure that distributors of
3572 certified advanced treatment systems are providing proper
3573 maintenance, have sufficient replacement parts available and are
3574 maintaining service records;

3575 (c) Notify the department of the results of monitoring
3576 visits to manufacturers and distributors within sixty (60) days of
3577 the conclusion of the monitoring; and

3578 (d) Submit completion reports on testing and any other
3579 information as the department may require for its review.

3580 (2) All manufacturers of advanced treatment systems
3581 certified in Mississippi shall provide technical training staff to
3582 the department as needed.

3583 **SECTION 100.** Section 41-67-11, Mississippi Code of 1972, is
3584 brought forward as follows:

3585 41-67-11. (1) Individual on-site wastewater disposal
3586 systems may be approved in an area where individual on-site
3587 wastewater disposal systems otherwise would not be approved
3588 because of the availability or feasibility of connection to a



3589 centralized wastewater treatment system only after a contract has
3590 been awarded or other definite commitments as are deemed
3591 sufficient to the department are formalized for the construction
3592 of a centralized wastewater treatment system that upon completion
3593 will adequately serve the property. Individual on-site wastewater
3594 disposal systems shall only be approved when the centralized
3595 wastewater treatment system will be completed and available for
3596 use within thirty-six (36) months. The department may approve the
3597 installation of a system under these circumstances only if the
3598 system will comply with the requirements of Section 41-67-5(1) and
3599 comply with all construction requirements of the department. The
3600 system may be installed only after the developer has signed a
3601 written agreement with the centralized wastewater treatment
3602 provider stating that the developer will connect to the
3603 centralized wastewater treatment system when it becomes available,
3604 and the provider of the centralized wastewater treatment system
3605 being constructed certifies that the centralized wastewater
3606 treatment system will have adequate capacity to accept the sewage
3607 to be produced by the individual on-site wastewater disposal
3608 systems. The developer shall install an internal sewage
3609 collection system from each lot to the connection point to the
3610 centralized wastewater treatment system as he develops the streets
3611 of the subdivision. Upon completion of the construction of the
3612 centralized wastewater treatment system, all individual on-site
3613 wastewater disposal systems shall be abandoned and all residences,



3614 buildings or facilities connected to the centralized wastewater
3615 treatment system.

3616 (2) The department may approve the use of a sewage holding
3617 tank for the purpose of providing sewage services. The department
3618 shall require the proper abandonment and removal of the sewage
3619 holding tank and connection to a centralized wastewater treatment
3620 system when that system is available, or the usage is no longer
3621 needed.

3622 **SECTION 101.** Section 41-67-12, Mississippi Code of 1972, is
3623 brought forward as follows:

3624 41-67-12. (1) The department shall assess fees in the
3625 following amounts for the following purposes:

3626 (a) A fee of One Hundred Dollars (\$100.00) shall be
3627 levied for soil and site evaluation and recommendation of
3628 individual on-site wastewater disposal systems. The department
3629 may increase the amount of the fee authorized in this paragraph
3630 (a) not more than two (2) times during the period from July 1,
3631 2016, through June 30, 2020, with the percentage of each increase
3632 being not more than five percent (5%) of the amount of the fee in
3633 effect at the time of the increase.

3634 (b) A fee of One Hundred Fifty Dollars (\$150.00) shall
3635 be levied once every three (3) years for the certification of
3636 installers and pumpers.



3637 (c) A fee of Three Hundred Dollars (\$300.00) shall be
3638 levied once every three (3) years for the registration of
3639 manufacturers.

3640 Any increase in the fee charged by the department under
3641 paragraph (b) or (c) of this subsection shall be in accordance
3642 with the provisions of Section 41-3-65.

3643 (2) In the discretion of the board, a person shall be liable
3644 for a penalty equal to one and one-half (1-1/2) times the amount
3645 of the fee due and payable for failure to pay the fee on or before
3646 the date due, plus any amount necessary to reimburse the cost of
3647 collection.

3648 (3) No fee authorized under this section shall be assessed
3649 by the department for state agencies or institutions, including,
3650 without limitation, foster homes licensed by the Mississippi
3651 Department of Human Services.

3652 **SECTION 102.** Section 41-67-15, Mississippi Code of 1972, is
3653 brought forward as follows:

3654 41-67-15. Nothing in this chapter shall limit the authority
3655 of a municipality or board of supervisors to adopt similar
3656 ordinances which may be, in whole or in part, more restrictive
3657 than this chapter, and in those cases the more restrictive
3658 ordinances will govern. The department shall not approve any
3659 system that does not comply with an ordinance adopted by a
3660 municipality or board of supervisors under the authority of this
3661 section.



3662 **SECTION 103.** Section 41-67-19, Mississippi Code of 1972, is
3663 brought forward as follows:

3664 41-67-19. Each authorized agent of the department
3665 implementing this chapter shall demonstrate to the department's
3666 satisfaction that the person:

3667 (a) Is competent to review and provide any requested
3668 approval of design and installation of individual on-site
3669 wastewater disposal systems, as well as the operation, repair or
3670 maintenance of those systems, to make soil permeability tests or
3671 soil and site evaluations, and to conduct inspections of
3672 individual on-site wastewater disposal systems in accordance with
3673 this chapter and rules and regulations adopted under this chapter;
3674 and

3675 (b) Has successfully completed the department's
3676 certification training program.

3677 **SECTION 104.** Section 41-67-21, Mississippi Code of 1972, is
3678 brought forward as follows:

3679 41-67-21. (1) The department shall require a property owner
3680 and/or lessee to repair a malfunctioning individual on-site
3681 wastewater disposal system on the owner's or lessee's property
3682 before the thirtieth day after the date on which the owner or
3683 lessee is notified by the department of the malfunctioning system.

3684 (2) The property owner and/or lessee shall take adequate
3685 measures as soon as practicable to abate an immediate health
3686 hazard.



3687 (3) If an existing residential individual on-site wastewater
3688 disposal system is malfunctioning, the system shall be repaired to
3689 reduce the volume of effluent, to adequately treat the effluent
3690 and to the greatest extent possible, to confine the discharge to
3691 the property of the generator. If repairs are made to
3692 significantly upgrade the existing individual on-site wastewater
3693 disposal system, the department shall approve the system, if
3694 requested.

3695 (4) The property owner or lessee may be assessed a civil
3696 penalty not to exceed Five Dollars (\$5.00) for each day the
3697 individual on-site wastewater disposal system remains unrepaired
3698 after the thirty-day period specified in subsection (1) of this
3699 section.

3700 (5) The board may assess the property owner or lessee of an
3701 individual on-site wastewater disposal system authorized under
3702 Section 41-67-3(3) a civil penalty not to exceed Five Dollars
3703 (\$5.00) for each day the system fails to meet the performance
3704 standards of that system after the thirty-day period specified in
3705 subsection (1) of this section.

3706 (6) All penalties collected by the board under this section
3707 shall be deposited in the State General Fund.

3708 (7) Appeals from the imposition of civil penalty under this
3709 section may be taken as provided in Section 41-67-29.

3710 **SECTION 105.** Section 41-67-23, Mississippi Code of 1972, is
3711 brought forward as follows:



3712 41-67-23. The department or its authorized representative
3713 may enter onto property and make inspections of any individual
3714 on-site wastewater disposal system as necessary to ensure that the
3715 system is in compliance with this chapter and the rules and
3716 regulations adopted under this chapter. The department shall give
3717 reasonable notice to any property owner, lessee or occupant prior
3718 to entry onto the property. The owner, lessee, owner's
3719 representative, or occupant of the property on which the system is
3720 located shall give the department or its authorized representative
3721 reasonable access to the property at reasonable times to make
3722 necessary inspections.

3723 **SECTION 106.** Section 41-67-25, Mississippi Code of 1972, is
3724 brought forward as follows:

3725 41-67-25. (1) A person may not operate as an installer of
3726 individual on-site wastewater disposal systems unless that person
3727 is currently certified by the department. A person who installs
3728 an individual on-site wastewater disposal system on his own
3729 property for his primary residence is not considered an installer
3730 for purposes of this subsection.

3731 (2) An installer of advanced treatment systems or products
3732 must be a factory-trained and authorized representative. The
3733 manufacturer must furnish documentation to the department
3734 certifying the satisfactory completion of factory training and the
3735 establishment of the installer as an authorized manufacturer's
3736 representative.



3737 (3) The department shall issue a certification to an
3738 installer if the installer:

3739 (a) Completes an application form that complies with
3740 this chapter and rules and regulations adopted by the board;

3741 (b) Satisfactorily completes the training program for
3742 installation and maintenance provided by the department;

3743 (c) Pays the certification fee once every three (3)
3744 years, which shall be an amount not greater than One Hundred Fifty
3745 Dollars (\$150.00); any increase in the fee charged by the
3746 department under this paragraph shall be in accordance with the
3747 provisions of Section 41-3-65; and

3748 (d) Provides proof of having a valid general business
3749 liability insurance policy in effect with liability limits of at
3750 least Fifty Thousand Dollars (\$50,000.00) per occurrence and at
3751 least One Hundred Thousand Dollars (\$100,000.00) in total
3752 aggregate amount.

3753 (4) Each installer shall furnish proof of certification to a
3754 property owner, lessee, the owner's representative or occupant of
3755 the property on which an individual on-site wastewater disposal
3756 system is to be designed, constructed, repaired or installed by
3757 that installer and to the department or its authorized
3758 representative, if requested.

3759 (5) The department shall provide for renewal of
3760 certifications once every three (3) years.



3761 (6) (a) An installer's certification may be suspended or
3762 revoked by the department after notice and hearing if the
3763 installer violates this chapter or any rule or regulation adopted
3764 under this chapter.

3765 (b) The installer may appeal a suspension or revocation
3766 under this section as provided by law.

3767 (7) The department shall disseminate to the public an
3768 official list of certified installers.

3769 (8) If any person is operating in the state as an installer
3770 without certification by the board, the board, after due notice
3771 and opportunity for a hearing, may impose a monetary penalty not
3772 to exceed Ten Thousand Dollars (\$10,000.00) for each violation.

3773 (9) The department shall provide for renewal of installer
3774 certifications to be applied for at the local department offices.

3775 **SECTION 107.** Section 41-67-27, Mississippi Code of 1972, is
3776 brought forward as follows:

3777 41-67-27. A person may not operate a business in or do
3778 business in the State of Mississippi as a manufacturer of
3779 components used in an individual on-site wastewater disposal
3780 system without holding a valid manufacturer's registration issued
3781 by the department. If any person is operating in the state as a
3782 manufacturer without certification by the department, the
3783 department, after due notice and opportunity for a hearing, may
3784 impose a monetary penalty not to exceed Ten Thousand Dollars
3785 (\$10,000.00) for each violation.



3786 **SECTION 108.** Section 41-67-28, Mississippi Code of 1972, is
3787 brought forward as follows:

3788 41-67-28. (1) Except as otherwise provided in this chapter,
3789 any person who shall knowingly violate this chapter or any rule or
3790 regulation or written order of the board in pursuance thereof is,
3791 upon conviction, guilty of a misdemeanor and shall be punished as
3792 provided in Section 41-3-59.

3793 (2) Each day of a continuing violation is a separate
3794 violation.

3795 (3) (a) In addition to all other statutory and common law
3796 rights, remedies and defenses, any person who purchases an
3797 individual on-site wastewater disposal system and suffers any
3798 ascertainable loss of money or property, real or personal, may
3799 bring an action at law in the court having jurisdiction in the
3800 county in which the installer or manufacturer has the principal
3801 place of business, where the act allegedly occurred, to recover
3802 any loss of money or damages for the loss of any property
3803 resulting from any of the following:

3804 (i) Improper installation of an individual on-site
3805 wastewater disposal system due to faulty workmanship;

3806 (ii) Failure of an individual on-site wastewater
3807 disposal system to operate properly due to failure to install the
3808 system in accordance with any requirements of the manufacturer or
3809 in compliance with any rules and regulations of the board; or



3810 (iii) Failure of an individual on-site wastewater
3811 disposal system to operate properly due to installation.

3812 (b) Nothing in this chapter shall be construed to
3813 permit any class action or suit, but every private action must be
3814 maintained in the name of and for the sole use and benefit of the
3815 individual person.

3816 (4) A person who violates this chapter thereby causing a
3817 discharge off the property of the generator shall be liable to the
3818 party aggrieved or damaged by that violation for the actual
3819 damages and additional punitive damages equal to a maximum of
3820 twenty-five percent (25%) of the actual damages proven by the
3821 aggrieved party, to be taxed by the court where the suit is heard
3822 on an original action, by appeal or otherwise and recovered by a
3823 suit at law in any court of competent jurisdiction. In addition,
3824 the court may award the prevailing party reasonable attorney's
3825 fees and court costs. Before filing suit, the party aggrieved or
3826 damaged must give thirty (30) days' written notice of its intent
3827 to file suit to the alleged violator.

3828 (5) (a) Any person who violates Section 41-67-7(5) or
3829 41-67-11(2) may be assessed an administrative fine in the amount
3830 of Five Hundred Dollars (\$500.00) and the public water system may
3831 discontinue service to that property owner until the failure to
3832 comply with Section 41-67-7(5) or 41-67-11(2) has been corrected.

3833 (b) All violators shall be given thirty (30) days'
3834 notice before any adverse action.



3835 (c) Any violator shall have the right to appeal an
3836 adverse determination through the procedures set out in Section
3837 41-67-29.

3838 **SECTION 109.** Section 41-67-29, Mississippi Code of 1972, is
3839 brought forward as follows:

3840 41-67-29. Any person who is aggrieved by any final decision
3841 of the board may appeal that final decision to the chancery court
3842 of the county of the situs in whole or in part of the subject
3843 matter. The appellant shall give a cost bond with sufficient
3844 sureties, payable to the state in a sum to be fixed by the board
3845 or the court and to be filed with and approved by the clerk of the
3846 court. The aggrieved party may, within thirty (30) days following
3847 a final decision of the board, petition the chancery court for an
3848 appeal with supersedeas and the chancellor shall grant a hearing
3849 on the petition. Upon good cause shown the chancellor may grant
3850 the appeal with supersedeas. The appellant shall be required to
3851 post a bond with sufficient sureties according to law in an amount
3852 to be determined by the chancellor. The chancery court shall
3853 always be deemed open for hearing of appeals and the chancellor
3854 may hear the appeal in termtime or in vacation at any place in his
3855 district. The appeal shall have precedence over all civil cases,
3856 except election contests. The chancery court shall review all
3857 questions of law and of fact and may enter a final order or remand
3858 the matter to the board for appropriate action as may be indicated
3859 or necessary under the circumstances. Appeals may be taken from



3860 the chancery court to the Supreme Court in the manner as now
3861 required by law, but if a supersedeas is desired by the party
3862 appealing to the chancery court, that party may apply therefor to
3863 the chancellor, who shall award a writ of supersedeas, without
3864 additional bond, if in the chancellor's judgment material damage
3865 is not likely to result. If material damage is likely to result,
3866 the chancellor shall require a supersedeas bond as deemed proper,
3867 which shall be liable to the state for any damage.

3868 **SECTION 110.** Section 41-67-31, Mississippi Code of 1972, is
3869 brought forward as follows:

3870 41-67-31. Sections 41-67-1 through 41-67-29 and Sections
3871 41-67-33 through 41-67-41 shall stand repealed on July 1, 2023.

3872 **SECTION 111.** Section 41-67-33, Mississippi Code of 1972, is
3873 brought forward as follows:

3874 41-67-33. (1) The department shall adopt and use procedures
3875 for conducting reviews requested by any person aggrieved by the
3876 disapproval or requirements for an on-site wastewater disposal
3877 system as provided by the department in written form under Section
3878 41-67-6. The procedures shall include that the person may request
3879 review by submitting a written request of review to the Director
3880 of the Office of Environmental Health. The request for review
3881 shall identify the matter contested and state the person's name,
3882 mailing address and home and daytime phone numbers. Within ten
3883 (10) business days of the receipt of the request for review, the
3884 department shall issue in writing a ruling and determination to



3885 the person and if any corrections are necessary to any form
3886 previously issued by the department, then new forms shall be
3887 submitted to the person.

3888 (2) Property owners may apply for a variance from the
3889 department by submitting a report for a proposed system to the
3890 department from a licensed professional engineer that the proposed
3891 wastewater treatment system will properly treat and maintain
3892 wastewater on the property and proof that the licensed
3893 professional engineer has errors and omissions insurance. The
3894 department shall grant the variance but still have authority for
3895 final approval to inspect that the system is installed as
3896 designed. All forms from the department relating to allowed
3897 wastewater systems shall include the variance option.

3898 (3) Any person aggrieved by the ruling issued by the
3899 Director of the Office of Environmental Health may apply for a
3900 hearing. Any hearing shall be conducted by a hearing officer
3901 designated by the department. At the hearing, the hearing officer
3902 may conduct reasonable questioning of persons who make relevant
3903 factual allegations concerning the proposal. The hearing officer
3904 shall require that all persons be sworn before they may offer any
3905 testimony at the hearing, and the hearing officer is authorized to
3906 administer oaths. Any person so choosing may be represented by
3907 counsel at the hearing. A record of the hearing shall be made,
3908 which shall consist of a transcript of all testimony received, all
3909 documents and other material introduced, the staff report and



3910 recommendation, and any other material as the hearing officer
3911 considers relevant. He shall make a recommendation within a
3912 reasonable period of time after the hearing is closed and after he
3913 has had an opportunity to review, study and analyze the evidence
3914 presented during the hearing. The completed record shall be
3915 certified to the State Health Officer, who shall consider only the
3916 record in making his decision, and shall not consider any evidence
3917 or material that is not included. All final decisions regarding
3918 the disapproval or requirements for an on-site wastewater disposal
3919 system shall be made by the State Health Officer. The State
3920 Health Officer shall make his written findings and issue his order
3921 after reviewing the record, not to exceed thirty (30) days
3922 following his receipt of the record.

3923 **SECTION 112.** Section 41-67-37, Mississippi Code of 1972, is
3924 brought forward as follows:

3925 41-67-37. (1) A person may not operate as a certified
3926 professional evaluator in this state unless that person is
3927 currently certified by the department or is a licensed
3928 professional engineer.

3929 (2) A person must meet one (1) of the following
3930 requirements, in addition to the additional requirements set forth
3931 in other sections of this chapter and rules and regulations of the
3932 board, in order to be eligible to become a certified professional
3933 evaluator:



3934 (a) Be a professional geologist registered in the State
3935 of Mississippi;

3936 (b) Be a professional soil classifier licensed in the
3937 State of Mississippi; or

3938 (c) Be a person who possesses a demonstrable, adequate
3939 and appropriate record of professional experience and/or training
3940 as determined by the department.

3941 (3) The department shall issue a certification to a
3942 certified professional evaluator if the certified professional
3943 evaluator:

3944 (a) Completes an application form that complies with
3945 this chapter and rules adopted under this chapter;

3946 (b) Satisfactorily completes the certified professional
3947 evaluator training program provided by the department;

3948 (c) Pays the certification fee once every three (3)
3949 years; any increase in the fee charged by the department under
3950 this paragraph shall be in accordance with the provisions of
3951 Section 41-3-65; and

3952 (d) Provides proof of having an errors and omissions
3953 policy or surety in effect with liability limits of at least Fifty
3954 Thousand Dollars (\$50,000.00) per occurrence and at least One
3955 Hundred Thousand Dollars (\$100,000.00) in total aggregate amount.

3956 (4) Each certified professional evaluator shall furnish
3957 proof of certification to a property owner or the owner's
3958 representative of the property before performing a site evaluation



3959 of the property on which an individual on-site wastewater disposal
3960 system is to be designed, constructed, repaired or installed by
3961 the certified professional evaluator and to the department or its
3962 authorized representative, if requested.

3963 (5) The department shall provide for renewal of
3964 certifications once every three (3) years.

3965 (6) The department shall disseminate to the public an
3966 official list of certified professional evaluators.

3967 (7) If any person who is not a licensed professional
3968 engineer operates in the state as a certified professional
3969 evaluator without certification by the department, the department,
3970 after due notice and opportunity for a hearing, may impose a
3971 monetary penalty not to exceed Ten Thousand Dollars (\$10,000.00)
3972 for each violation.

3973 **SECTION 113.** Section 41-67-39, Mississippi Code of 1972, is
3974 brought forward as follows:

3975 41-67-39. (1) A person may not be engaged in the business
3976 of removing and disposing of the sludge and liquid waste (septage)
3977 from individual on-site wastewater disposal systems in this state
3978 unless that person has a valid certificate issued by the
3979 department.

3980 (2) The department shall issue a certificate to a pumper if
3981 the pumper:

3982 (a) Completes an application form that complies with
3983 this chapter and rules adopted under this chapter;



3984 (b) Satisfactorily completes the certified pumper
3985 training program provided by the department;

3986 (c) Satisfactorily complies with the requirements of
3987 his/her pumping and hauling equipment;

3988 (d) Provides documentation of a disposal site approved
3989 by the Department of Environmental Quality, Office of Pollution
3990 Control;

3991 (e) Pays the license fee once every three (3) years;
3992 any increase in the fee charged by the department under this
3993 paragraph shall be in accordance with the provisions of Section
3994 41-3-65; and

3995 (f) Provides proof of having a valid general business
3996 liability insurance policy in effect with liability limits of at
3997 least Fifty Thousand Dollars (\$50,000.00) per occurrence and at
3998 least One Hundred Thousand Dollars (\$100,000.00) in total
3999 aggregate amount.

4000 (3) Each pumper or designated agent thereof, upon request,
4001 shall furnish proof of certification to an individual before
4002 entering a contract with that individual for the removing and
4003 disposing of the sludge and liquid waste (septage) from an
4004 individual on-site wastewater disposal system.

4005 (4) The department shall disseminate to the public an
4006 official list of certified pumpers.

4007 (5) If any person operates in the state as a certified
4008 pumper without a license by the board, the board, after due notice



4009 and opportunity for a hearing, may impose a monetary penalty not
4010 to exceed Ten Thousand Dollars (\$10,000.00) for each violation.

4011 (6) The department may suspend or revoke a pumper
4012 certification if the pumper disposes of septage or other liquid
4013 waste in an unpermitted or unapproved site and/or violates this
4014 chapter or rules and regulations under this chapter.

4015 (7) A municipal wastewater treatment facility may make a
4016 site available for certified pumpers to dispose of septic or other
4017 liquid waste.

4018 (8) The department shall provide for renewal of
4019 certifications once every three (3) years.

4020 (9) The department must provide for renewal pumper
4021 certifications to be applied for at the local department offices.

4022 **SECTION 114.** Section 41-67-41, Mississippi Code of 1972, is
4023 brought forward as follows:

4024 41-67-41. (1) There is created the Wastewater Advisory
4025 Council for the purpose of advising the department regarding
4026 individual on-site wastewater disposal systems. The advisory
4027 council shall be composed of the following:

4028 (a) One (1) appointee of the State Health Officer;

4029 (b) One (1) appointee of the Chairman of the State
4030 Board of Health;

4031 (c) One (1) appointee of the Chairman of the State
4032 Board of Health that represents a Mississippi Aerobic Treatment
4033 Unit (ATU) manufacturer;



4034 (d) One (1) appointee of the Chairman of the State
4035 Board of Health that represents a certified installer;

4036 (e) One (1) appointee of the Chairman of the State
4037 Board of Health that represents a septic tank or aggregate
4038 disposal manufacturer;

4039 (f) One (1) appointee of the Executive Director of the
4040 Mississippi Department of Environmental Quality;

4041 (g) One (1) appointee of the Executive Director of the
4042 Office of Pollution Control;

4043 (h) One (1) appointee of the Executive Director of the
4044 Mississippi Soil and Water Conservation Commission;

4045 (i) One (1) appointee of the Director of the
4046 Mississippi State Board of Registered Professional Geologists;

4047 (j) One (1) appointee of the Chairman of the Department
4048 of the Mississippi State University School of Civil and
4049 Environmental Engineering Companies;

4050 (k) The federally appointed Mississippi State Soil
4051 Scientist, or his designee;

4052 (l) One (1) appointee of the Executive Director of the
4053 American Council of Engineering Companies;

4054 (m) One (1) appointee of the Executive Director of the
4055 Home Builders Association of Mississippi;

4056 (n) One (1) appointee of the Executive Director of the
4057 Mississippi Engineering Society;

4058 (o) One (1) appointee of the Executive Director of the



4059 Mississippi Manufactured Housing Association;

4060 (p) One (1) appointee of the Executive Director of the
4061 Mississippi Rural Water Association;

4062 (q) One (1) appointee of the Executive Director of the
4063 Mississippi Association of Supervisors;

4064 (r) One (1) appointee of the President of the
4065 Mississippi Pumpers Association;

4066 (s) One (1) appointee of the President of the
4067 Mississippi Water and Pollution Control Operators Association,
4068 Inc.;

4069 (t) One (1) appointee of the Executive Director of the
4070 Mississippi Association of Realtors; and

4071 (u) One (1) appointee of the Executive Director of the
4072 Mississippi Municipal League.

4073 (2) The members of the advisory council shall elect a
4074 chairman and vice chairman from its membership.

4075 (3) The terms of appointments for each member shall be for a
4076 period of two (2) years.

4077 (4) The advisory council shall have quarterly meetings, with
4078 at least one (1) of those meetings taking place between forty-five
4079 (45) and sixty (60) days before the meeting of the board.

4080 (5) The department shall staff all advisory council meetings
4081 and record minutes of those meetings.

4082 **SECTION 115.** Section 41-67-101, Mississippi Code of 1972, is
4083 brought forward as follows:



4084 41-67-101. (1) There is created the Wastewater Advisory
4085 Board for the purpose of advising the Department of Health
4086 regarding individual on-site wastewater disposal systems. The
4087 advisory board shall be composed of the following:

4088 (a) One (1) appointee of the Executive Director of the
4089 American Council of Engineering;

4090 (b) One (1) appointee of the Executive Director of the
4091 Office of Pollution Control;

4092 (c) One (1) appointee of the State Health Officer;

4093 (d) One (1) appointee of the Executive Director of the
4094 Home Builders Association of Mississippi;

4095 (e) One (1) appointee of the Chairman of the
4096 Mississippi State Board of Health that represents a Mississippi
4097 ATU manufacturer;

4098 (f) One (1) appointee of the Executive Director of the
4099 Mississippi Engineering Society;

4100 (g) One (1) appointee of the Executive Director of the
4101 Mississippi Manufactured Housing Association;

4102 (h) One (1) appointee of the Chairman of the
4103 Mississippi State Board of Health that represents a certified
4104 installer;

4105 (i) One (1) appointee of the Chairman of the
4106 Mississippi State Board of Health that represents a septic tank or
4107 aggregate disposal manufacturer;



4108 (j) One (1) appointee of the Executive Director of the
4109 Mississippi Rural Water Association;
4110 (k) One (1) appointee of the Executive Director of the
4111 Mississippi Association of Supervisors;
4112 (l) One (1) appointee of the President of the
4113 Mississippi Pumpers Association;
4114 (m) One (1) appointee of the Executive Director of the
4115 Mississippi Soil and Water Conservation Commission;
4116 (n) One (1) appointee of the President of the
4117 Mississippi Water and Pollution Control Operators Association,
4118 Inc. ;
4119 (o) The federally appointed Mississippi State Soil
4120 Scientist, or his designee;
4121 (p) One (1) appointee of the Director of the
4122 Mississippi State Board of Registered Professional Geologists;
4123 (q) One (1) appointee of the Executive Director of the
4124 Mississippi Department of Environmental Quality;
4125 (r) One (1) appointee of the Chairman of the
4126 Mississippi State Board of Health;
4127 (s) One (1) appointee of the Executive Director of the
4128 Mississippi Association of Realtors;
4129 (t) One (1) appointee of the Executive Director of the
4130 Mississippi Municipal League; and



4131 (u) One (1) appointee of the Chairman of the Department
4132 of the Mississippi State University School of Civil and
4133 Environmental Engineering.

4134 (2) The members of the advisory committee shall elect a
4135 chairman and vice chairman from its membership.

4136 (3) The terms of appointments for each member shall be for a
4137 period of two (2) years.

4138 (4) The advisory committee shall have quarterly meetings,
4139 with at least one (1) of those meetings taking place between
4140 forty-five (45) and sixty (60) days before the meeting of the
4141 Mississippi State Board of Health.

4142 (5) The Mississippi Department of Health shall staff all
4143 advisory committee meetings and record minutes of those meetings.

4144 **SECTION 116.** Section 49-17-81, Mississippi Code of 1972, is
4145 brought forward as follows:

4146 49-17-81. Sections 49-17-81 through 49-17-89 shall be known
4147 and cited as the "Mississippi Water Pollution Control Revolving
4148 Fund and Emergency Loan Fund Act."

4149 **SECTION 117.** Section 49-17-83, Mississippi Code of 1972, is
4150 brought forward as follows:

4151 49-17-83. For the purposes of Sections 49-17-81 through
4152 49-17-89, the following words and phrases shall have the meaning
4153 ascribed in this section:

4154 (a) "Administrator" means the Administrator of the
4155 United States Environmental Protection Agency.



4156 (b) "Commission" means the Mississippi Commission on
4157 Environmental Quality.

4158 (c) "Department" means the Mississippi Department of
4159 Environmental Quality.

4160 (d) "Emergency fund" means the "Water Pollution Control
4161 Emergency Loan Fund" created under Section 49-17-86.

4162 (e) "Loan agreement" means an agreement by and among
4163 the commission, a political subdivision and the State Tax
4164 Commission to evidence the terms and provisions of a loan under
4165 Sections 49-17-81 through 49-17-89.

4166 (f) "Loan fund" means the Water Pollution Abatement
4167 Loan Fund created pursuant to Section 49-17-61.

4168 (g) "Municipal security" means a bond, note or other
4169 evidence of indebtedness issued by a political subdivision to
4170 evidence a loan pursuant to the provisions of Sections 49-17-81
4171 through 49-17-89.

4172 (h) "Political subdivision" means any county,
4173 municipality, utility, district, political subdivision, or other
4174 governmental unit created under state law.

4175 (i) "Project" means a publicly owned wastewater
4176 collection, treatment or disposal system including sludge
4177 disposal, renovation, repair and upgrading of existing systems,
4178 nonpoint source pollution control management programs and estuary
4179 conservation and management programs, and otherwise qualified



4180 under rules of the commission pursuant to the federal Water
4181 Quality Act of 1987.

4182 (j) "Revolving fund" means the Mississippi Water
4183 Pollution Control Revolving Fund created under Section 49-17-85.

4184 (k) "State" means the State of Mississippi.

4185 **SECTION 118.** Section 49-17-85, Mississippi Code of 1972, is
4186 brought forward as follows:

4187 49-17-85. (1) There is established in the State Treasury a
4188 fund to be known as the "Water Pollution Control Revolving Fund,"
4189 which shall be administered by the commission acting through the
4190 department. The revolving fund may receive bond proceeds and
4191 funds appropriated or otherwise made available by the Legislature
4192 in any manner and funds from any other source, public or private.
4193 The revolving fund shall be maintained in perpetuity for the
4194 purposes established in this section.

4195 (2) There is established in the State Treasury a fund to be
4196 known as the "Water Pollution Control Hardship Grants Fund," which
4197 shall be administered by the commission acting through the
4198 department. The grants fund shall be maintained in perpetuity for
4199 the purposes established in this section. Any interest earned on
4200 monies in the grants fund shall be credited to that fund.

4201 (3) The commission shall promulgate regulations for the
4202 administration of the revolving fund program, the hardship grants
4203 program and for related programs authorized under this section.
4204 The regulations shall be in accordance with the federal Water



4205 Quality Act of 1987, as amended, and regulations and guidance
4206 issued under that act. The commission may enter into
4207 capitalization grant agreements with the United States
4208 Environmental Protection Agency and may accept capitalization
4209 grant awards made under Title VI of the Water Quality Act of 1987,
4210 as amended.

4211 (4) The commission shall establish a loan program which
4212 shall commence after October 1, 1988, to assist political
4213 subdivisions in the construction of water pollution control
4214 projects. Loans from the revolving fund may be made to political
4215 subdivisions as set forth in a loan agreement in amounts not
4216 exceeding one hundred percent (100%) of eligible project costs as
4217 established by the commission. Notwithstanding loan amount
4218 limitations set forth in Section 49-17-61, the commission may
4219 require local participation or funding from other sources, or
4220 otherwise limit the percentage of costs covered by loans from the
4221 revolving fund. The commission may establish a maximum amount for
4222 any loan in order to provide for broad and equitable participation
4223 in the program.

4224 (5) The commission shall establish a hardship grants program
4225 for rural communities, which shall commence after July 1, 1997, to
4226 assist severely economically disadvantaged small rural political
4227 subdivisions in the construction of water pollution control
4228 projects. The commission may receive and administer state or
4229 federal funds, or both, appropriated for the operation of this



4230 grants program and may take all actions necessary to implement the
4231 program in accordance with the federal hardship grants program.
4232 The hardship grants program shall operate in conjunction with the
4233 revolving loan program administered under this section.

4234 (6) The commission shall act for the state in all matters
4235 and with respect to all determinations under Title VI of the
4236 federal Water Quality Act of 1987, as amended, and the federal
4237 Omnibus Appropriations and Recision Act of 1996.

4238 (7) Except as otherwise provided in this section, the
4239 revolving fund may be used only:

4240 (a) To make loans on the condition that:

4241 (i) The loans are made at or below market interest
4242 rates, at terms not to exceed the maximum time allowed by federal
4243 law after project completion; the interest rate and term may vary
4244 from time to time and from loan to loan at the discretion of the
4245 commission;

4246 (ii) Periodic principal and interest payments will
4247 commence when required by the commission but not later than one
4248 (1) year after project completion and all loans will be fully
4249 amortized when required by the commission but not later than the
4250 maximum time allowed by federal law after project completion;

4251 (iii) The recipient of a loan will establish a
4252 dedicated source of revenue for repayment of loans;

4253 (b) To buy or refinance the debt obligation of
4254 political subdivisions at or below market rates, where the debt



4255 obligations were incurred after March 7, 1985, and where the
4256 projects were constructed in compliance with applicable federal
4257 and state regulations;

4258 (c) To guarantee, or purchase insurance for,
4259 obligations of political subdivisions where the action would
4260 improve credit market access or reduce interest rates;

4261 (d) To provide loan guarantees for similar revolving
4262 funds established by municipalities or intermunicipal agencies;

4263 (e) To earn interest on fund accounts;

4264 (f) To establish nonpoint source pollution control
4265 management programs;

4266 (g) To establish estuary conservation and management
4267 programs;

4268 (h) For the reasonable costs of administering the
4269 revolving fund and conducting activities under this act, subject
4270 to the limitations established in Section 603(d)(7) of Title VI of
4271 the federal Clean Water Act, as amended, and subject to annual
4272 appropriation by the Legislature;

4273 (i) In connection with the issuance, sale and purchase
4274 of bonds under Section 31-25-1 et seq., related to the funding of
4275 projects, to provide security or a pledge of revenues for the
4276 repayment of the bonds; and

4277 (j) To pay the principal and interest on bonds issued
4278 pursuant to Section 11 of Chapter 580, Laws of 2007, Section 1 of
4279 Chapter 492, Laws of 2008, Section 47 of Chapter 557, Laws of



4280 2009, Section 45 of Chapter 533, Laws of 2010, Section 3 of
4281 Chapter 480, Laws of 2011, Section 36 of Chapter 569, Laws of
4282 2013, Section 9 of Chapter 452, Laws of 2018, Section 1 of Chapter
4283 415, Laws of 2019, Section 16 of Chapter 492, Laws of 2020, and
4284 Section 137 of Chapter 480, Laws of 2021, as they become due;
4285 however, only interest and investment earnings on money in the
4286 fund may be utilized for this purpose.

4287 (8) The hardship grants program shall be used only to
4288 provide hardship grants consistent with the federal hardship
4289 grants program for rural communities, regulations and guidance
4290 issued by the United States Environmental Protection Agency,
4291 subsections (3) and (5) of this section and regulations
4292 promulgated and guidance issued by the commission under this
4293 section.

4294 (9) The commission shall establish by regulation a system of
4295 priorities and a priority list of projects eligible for funding
4296 with loans from the revolving fund.

4297 (10) The commission may provide a loan from the revolving
4298 fund only with respect to a project if that project is on the
4299 priority list established by the commission.

4300 (11) The revolving fund shall be credited with all payments
4301 of principal and interest derived from the fund uses described in
4302 subsection (7) of this section. However, notwithstanding any
4303 other provision of law to the contrary, all or any portion of
4304 payments of principal and interest derived from the fund uses



4305 described in subsection (7) of this section may be designated or
4306 pledged for repayment of a loan as provided in Section 31-25-28 in
4307 connection with a loan from the Mississippi Development Bank.

4308 (12) The commission may establish and collect fees to defray
4309 the reasonable costs of administering the revolving fund if it
4310 determines that the administrative costs will exceed the
4311 limitations established in Section 603(d)(7) of Title VI of the
4312 federal Clean Water Act, as amended. The administration fees may
4313 be included in loan amounts to political subdivisions for the
4314 purpose of facilitating payment to the commission. The fees may
4315 not exceed five percent (5%) of the loan amount.

4316 (13) Except as otherwise provided in this section, the
4317 commission may, on a case-by-case basis and to the extent allowed
4318 by federal law, renegotiate the payment of principal and interest
4319 on loans made under this section to the six (6) most southern
4320 counties of the state covered by the Presidential Declaration of
4321 Major Disaster for the State of Mississippi (FEMA-1604-DR) dated
4322 August 29, 2005, and to political subdivisions located in such
4323 counties; however, the interest on the loans shall not be forgiven
4324 for a period of more than twenty-four (24) months and the maturity
4325 of the loans shall not be extended for a period of more than
4326 forty-eight (48) months.

4327 (14) The commission may, on a case-by-case basis and to the
4328 extent allowed by federal law, renegotiate the payment of
4329 principal and interest on loans made under this section to Hancock



4330 County as a result of coverage under the Presidential Declaration
4331 of Major Disaster for the State of Mississippi (FEMA-1604-DR)
4332 dated August 29, 2005, and to political subdivisions located in
4333 Hancock County.

4334 **SECTION 119.** Section 49-17-86, Mississippi Code of 1972, is
4335 brought forward as follows:

4336 49-17-86. (1) (a) There is created a fund in the State
4337 Treasury to be designated as the "Water Pollution Control
4338 Emergency Loan Fund" hereinafter referred to as "emergency fund."

4339 (b) The emergency fund may receive appropriations, bond
4340 proceeds, grants, gifts, donations or funds from any source,
4341 public or private. The emergency fund shall be credited with all
4342 repayments of principal and interest derived from loans made from
4343 the emergency fund.

4344 (c) The monies in the emergency fund may be expended
4345 only in amounts appropriated by the Legislature.

4346 (d) The emergency fund shall be maintained in
4347 perpetuity for the purposes established in Sections 49-17-81
4348 through 49-17-89. Unexpended amounts remaining in the emergency
4349 fund at the end of a fiscal year shall not lapse into the State
4350 General Fund. Any interest earned on amounts in the emergency
4351 fund shall be deposited to the credit of the fund.

4352 (2) The commission shall establish a loan program to assist
4353 political subdivisions in making emergency improvements such as
4354 repairs to or replacement of machinery, equipment, materials,



4355 structures or devices in existing water pollution abatement
4356 projects or such other emergency water pollution abatement
4357 projects as the commission deems necessary. Loans from the
4358 emergency fund may be made to political subdivisions as set forth
4359 in a loan agreement in amounts not exceeding one hundred percent
4360 (100%) of eligible project costs as established by the commission.
4361 The commission may require local participation or funding from
4362 other sources, or otherwise limit the percentage of costs covered
4363 by loans from the emergency fund. The commission may establish a
4364 maximum amount for any loan not to exceed Three Hundred Fifty
4365 Thousand Dollars (\$350,000.00).

4366 (3) Except as otherwise provided in this section, the
4367 emergency fund may be used only:

4368 (a) To make loans on the condition that:

4369 (i) Loans are made at or below market interest
4370 rates, at terms not to exceed ten (10) years after project
4371 completion; the interest rate may vary from time to time and from
4372 loan to loan at the discretion of the commission.

4373 (ii) Periodic principal and interest payments will
4374 commence when required by the commission but not later than one
4375 (1) year after project completion and all loans will be fully
4376 amortized when required by the commission but not later than ten
4377 (10) years after project completion.

4378 (iii) The recipient of a loan shall establish a
4379 dedicated source of revenue for repayment of loans. In addition,



4380 the commission may require any loan recipient to impose a per
4381 connection surcharge on each customer for repayment of any loan
4382 funds provided under this section.

4383 (iv) The recipient of the loan is not in arrears
4384 in repayments to the Water Pollution Control Revolving Fund, the
4385 Water Pollution Control Emergency Loan Fund or under the Water
4386 Pollution Abatement Loan Program.

4387 (b) To provide financial assistance to political
4388 subdivisions in making emergency improvements such as repairs to
4389 or replacement of machinery, equipment, materials, structures or
4390 devices in existing water pollution abatement projects or such
4391 other emergency water pollution abatement projects as the
4392 commission deems necessary.

4393 (c) To defray the reasonable costs of administering the
4394 emergency fund and conducting activities under this section,
4395 subject to annual appropriation by the Legislature.

4396 (4) The commission shall establish a system of evaluating
4397 the eligibility of projects, including a determination of the
4398 emergency nature of a situation for which funding is sought.

4399 (5) The fund will be credited with all payments of principal
4400 and interest derived from the fund uses described in subsection
4401 (3) of this section. However, notwithstanding any other provision
4402 of law to the contrary, all or any portion of payments of
4403 principal and interest derived from the fund uses described in
4404 subsection (3) of this section may be designated or pledged for



4405 repayment of a loan as provided for in Section 31-25-28 in
4406 connection with a loan from the Mississippi Development Bank.

4407 (6) In addition to any amounts allowed under subsection
4408 (3)(c), the commission may establish and collect fees to further
4409 defray the reasonable costs of administering the emergency fund.
4410 Any administrative fees may be included in loan amounts to
4411 political subdivisions for the purpose of facilitating payment to
4412 the commission; fees may not exceed five percent (5%) of the loan
4413 amount. The commission may also use administrative fees collected
4414 pursuant to Section 49-17-85 to defray the reasonable costs of
4415 administering the emergency fund.

4416 (7) The board may, on a case-by-case basis, renegotiate the
4417 payment of principal and interest on loans made under this section
4418 to the six (6) most southern counties of the state covered by the
4419 Presidential Declaration of Major Disaster for the State of
4420 Mississippi (FEMA-1604-DR) dated August 29, 2005, and to political
4421 subdivisions located in such counties; however, the interest on
4422 the loans shall not be forgiven for a period of more than
4423 twenty-four (24) months and the maturity of the loans shall not be
4424 extended for a period of more than forty-eight (48) months.

4425 **SECTION 120.** Section 49-17-87, Mississippi Code of 1972, is
4426 brought forward as follows:

4427 49-17-87. (1) A political subdivision which receives a loan
4428 from the revolving fund or emergency fund is required to and
4429 authorized to pledge for the repayment of such loan (a) any part



4430 of the sales tax reimbursement to which it may be entitled under
4431 Section 27-65-75, and (b) any part of the homestead exemption
4432 annual tax loss reimbursement to which it may be entitled under
4433 Section 27-33-77, to meet a repayment schedule set forth in a loan
4434 agreement. The loan agreement shall provide for (i) monthly
4435 payments, (ii) semiannual payments or (iii) other periodic
4436 payments, the annual total of which shall not exceed the annual
4437 total for any other year of the loan by more than fifteen percent
4438 (15%). The loan agreement shall provide for the repayment of all
4439 funds received from the revolving fund within the maximum time
4440 allowed by federal law after project completion and repayment of
4441 all funds received from the emergency fund within not more than
4442 ten (10) years from the date of project completion. The
4443 Department of Revenue shall pay to the revolving fund or emergency
4444 fund monthly, or as often as is practicable, from the amount,
4445 which would otherwise be remitted to a political subdivision from
4446 its sales tax reimbursement or homestead exemption annual tax loss
4447 reimbursement, the amounts set forth in such loan agreement.

4448 (2) Before any political subdivision shall receive any loan
4449 from the revolving fund or the emergency fund, it shall have
4450 executed with the Department of Revenue and the commission a loan
4451 agreement evidencing that loan. The loan agreement hereinabove
4452 provided for shall not be construed to prohibit any recipient from
4453 prepaying any part or all of the funds received.



4454 (3) As determined by the commission, any political
4455 subdivision desiring to construct a project approved by the
4456 department and which receives a loan from the state for that
4457 purpose may be required to pledge as security for the repayment of
4458 that loan, all or any part of the revenues of any project
4459 constructed, improved, repaired, replaced, purchased or refinanced
4460 with the proceeds of such loan. Whenever any project is a part of
4461 a system or combined system, then all or any portion of the
4462 revenues of that system or combined system may be pledged to
4463 secure repayment of a loan as determined by the commission.

4464 The loan agreement shall provide for periodic payments, the
4465 annual total of which shall not exceed the annual total for any
4466 other year of the loan by more than fifteen percent (15%). The
4467 repayment schedule shall provide for the repayment of all funds
4468 received from the revolving fund within the maximum time allowed
4469 by federal law after project completion and repayment of all funds
4470 received from the emergency fund within not more than ten (10)
4471 years from the date of project completion. Payments under the
4472 loan agreement shall be made prior to the payments of principal or
4473 interest on any bonds issued by the political subdivision in
4474 connection with the project or projects to which loans from the
4475 revolving fund or emergency fund are made.

4476 The State Auditor, upon the request of the commission, shall
4477 audit the receipts and expenditures of each district whose monthly
4478 payments are to be received by the department, and if the State



4479 Auditor should find the political subdivision in arrears, the
4480 Auditor shall immediately begin withholding from funds due the
4481 taxing district in which the political subdivision is located,
4482 under Section 27-33-41, an amount equal to the payment due plus
4483 accrued interest, late charges and expenses incurred in the audit
4484 and issue a warrant for that amount to the revolving fund or
4485 emergency fund as directed below.

4486 The loan agreement hereinabove provided for shall not be
4487 construed to prohibit any recipient from prepaying any part or all
4488 of the funds received.

4489 (4) Loans or any bonds or other evidences of indebtedness
4490 which are incurred or issued either pursuant to this chapter or
4491 Section 31-25-1 et seq., in relation to this chapter, or pursuant
4492 to any other law as evidence of any loan made or indebtedness
4493 incurred pursuant to this chapter, shall not be deemed
4494 indebtedness within the meaning specified in Section 21-33-303,
4495 with regard to cities or incorporated towns, in Section 19-9-5,
4496 with regard to counties, and in any other state law establishing a
4497 similar indebtedness limitation with regard to political
4498 subdivisions other than cities, incorporated towns and counties.

4499 **SECTION 121.** Section 49-17-89, Mississippi Code of 1972, is
4500 brought forward as follows:

4501 49-17-89. (1) Political subdivisions are hereby authorized
4502 to borrow monies under the provisions of Sections 49-17-81 through
4503 49-17-89 to issue municipal securities to evidence such loans, and



4504 to enter into such other agreements necessary for such loans and
4505 municipal securities on such terms and conditions as such
4506 political subdivisions shall deem necessary and advisable.

4507 (2) In connection with the issuance of municipal securities
4508 by political subdivisions to evidence loans under the provisions
4509 of this chapter and as may be required by Section 31-25-1 et seq.,
4510 the following provisions shall specifically apply:

4511 (a) No notice of intent to issue municipal securities
4512 as may otherwise be required by state law shall be required.

4513 (b) The governing body of the political subdivision
4514 shall adopt such resolutions as may be necessary to borrow monies
4515 under this chapter, to issue and sell municipal securities to
4516 evidence such loans, and to approve and authorize the execution of
4517 any agreements related thereto.

4518 (c) Such loans and municipal securities shall be
4519 secured as provided for in Section 49-17-87.

4520 (d) Such loans and municipal securities shall not be
4521 deemed general obligations.

4522 (e) Such municipal securities shall be sold only to
4523 evidence the repayment of a loan under this chapter and may be
4524 sold at such price or prices, in such form, and subject to such
4525 terms and conditions of issue, redemption and maturity, rate of
4526 interest and time of payment of interest as otherwise provided for
4527 a loan under this chapter.



4528 (f) A political subdivision may pay all expenses,
4529 premiums, fees and commissions which it may deem necessary and
4530 advantageous in connection with any loan and the issuance and sale
4531 of municipal securities under this chapter.

4532 (g) Municipal securities issued under this chapter need
4533 not be validated as provided in Section 31-13-1 et seq.

4534 (h) This section shall be deemed to provide an
4535 additional, alternate and complete method for the doing of the
4536 things authorized hereby and shall be deemed and construed to be
4537 supplemental to any provisions of any other laws and not in
4538 derogation of any such provisions. In connection with the
4539 issuance of municipal securities under this chapter, a political
4540 subdivision shall not be required to comply with the provisions of
4541 any other law except as provided herein.

4542 **SECTION 122.** Section 51-41-1, Mississippi Code of 1972, is
4543 brought forward as follows:

4544 51-41-1. It is the intent of the Legislature to provide a
4545 means, in addition to the incorporation of districts authorized in
4546 Sections 19-1-151 through 19-5-207, by which not-for-profit
4547 corporations or associations involved in the sale, transmission
4548 and distribution of potable water to members of the public and
4549 others may convert their entity status from that of a body
4550 corporate to that of a body politic, thereby allowing those
4551 entities the opportunity to access the tax-exempt capital markets
4552 and thereby assuring the State of Mississippi and the customers of



4553 those entities of adequate supplies of water at the lowest water
4554 rates possible.

4555 **SECTION 123.** Section 51-41-3, Mississippi Code of 1972, is
4556 brought forward as follows:

4557 51-41-3. As used in this chapter, unless the context
4558 otherwise requires:

4559 (a) "Board" means the board of directors of the water
4560 authority;

4561 (b) "Bond" means any bond, promissory note, lease
4562 purchase agreement or other evidence of indebtedness of any nature
4563 along with all debt securing instruments of every nature related
4564 thereto;

4565 (c) "Indenture" means a mortgage, an indenture of
4566 mortgage, deed of trust, trust agreement, loan agreement, security
4567 agreement or trust indenture executed by the water authority as
4568 security for any bonds;

4569 (d) "Project" means any raw or potable water or
4570 wastewater intake, treatment, distribution, transmission, storage,
4571 pumping, well site, well field or other facility or system, or any
4572 combination of the foregoing, that has as its purpose the
4573 providing of raw or potable water to members of the public and
4574 commercial, industrial or other users or the treatment of
4575 wastewater, along with any and all other appurtenances, equipment,
4576 betterments or improvements related thereto. The above projects
4577 may include any lands, or interest in any lands, deemed by the



4578 board to be desirable in connection with the projects, and
4579 necessary equipment for the proper functioning and operation of
4580 the buildings or facilities involved;

4581 (e) "Qualified corporation" means any not-for-profit
4582 corporation or association that provides, distributes, transmits,
4583 treats, pumps or stores raw or potable water to or for the benefit
4584 of members of the general public and commercial, industrial and
4585 other users;

4586 (f) "United States" means the United States of America
4587 or any of its agencies or instrumentalities;

4588 (g) "State" means the State of Mississippi; and

4589 (h) "Water authority" means that body politic and
4590 governmental entity organized under the provisions of this
4591 chapter.

4592 **SECTION 124.** Section 51-41-5, Mississippi Code of 1972, is
4593 brought forward as follows:

4594 51-41-5. This chapter shall be liberally construed in
4595 conformity with its intent. All acts and activities of the water
4596 authority performed under the authority of this chapter are
4597 legislatively determined and declared to be essential governmental
4598 functions.

4599 **SECTION 125.** Section 51-41-7, Mississippi Code of 1972, is
4600 brought forward as follows:

4601 51-41-7. There is conferred upon a water authority, the
4602 authority to take such action and to do, or cause to be done, such



4603 things as are necessary or desirable to accomplish and implement
4604 the purposes and intent of this chapter according to the import of
4605 this chapter.

4606 **SECTION 126.** Section 51-41-9, Mississippi Code of 1972, is
4607 brought forward as follows:

4608 51-41-9. (1) Whenever a qualified corporation desires to
4609 convert into and become reconstituted and reincorporated as a
4610 water authority under this chapter, the qualified corporation
4611 shall present to and file with the Secretary of State:

4612 (a) Its resolution duly adopted by the board of
4613 directors of the qualified corporation that evidences the desire
4614 of the qualified corporation to convert into and become
4615 reconstituted and reincorporated as a water authority and that
4616 also certifies that the qualified corporation:

4617 (i) Was initially formed as a not-for-profit
4618 corporation or association; and

4619 (ii) Desires to operate as a public body
4620 authorized under the laws of Mississippi as a result of its
4621 conversion and reconstitution as a water authority under this
4622 chapter;

4623 (b) Its application for reconstitution and certificate
4624 of incorporation, which shall state and include the following
4625 information:

4626 (i) The name of the water authority, which shall
4627 be "The _____ Public Water Authority of the State of



4628 Mississippi," or some other name of similar import, it being
4629 understood that the water authority may adopt a fictitious
4630 operational name upon written request to and approval by the
4631 Secretary of State;

4632 (ii) The location of the water authority's
4633 principal office, and the number of directors of the water
4634 authority, which shall be subject to change and modification as
4635 provided in the water authority's bylaws;

4636 (iii) The names and addresses of the initial board
4637 of directors of the water authority;

4638 (iv) The name and address of the agent for service
4639 of process of the water authority; and

4640 (v) Any other matters that the initial board of
4641 directors of the water authority may deem necessary and
4642 appropriate;

4643 (c) A copy of the water authority's bylaws along with
4644 any other information that the initial board of directors of the
4645 water authority may deem necessary and appropriate;

4646 (d) A statement and certification from the Secretary of
4647 State that the proposed name of the water authority is not
4648 identical with that of any other water authority in the state, or
4649 so nearly similar thereto as to lead to confusion and uncertainty;
4650 and

4651 (e) A reasonable filing and review fee that the
4652 Secretary of State may designate and determine from time to time,



4653 which shall not be in excess of the filing fee charged in
4654 connection with the receipt and filing of a corporation's articles
4655 of incorporation.

4656 (2) Two (2) or more qualified corporations may jointly
4657 convert into and become reconstituted and reincorporated as one
4658 (1) water authority under the same procedure as specified for one
4659 (1) qualified corporation under this chapter.

4660 **SECTION 127.** Section 51-41-11, Mississippi Code of 1972, is
4661 brought forward as follows:

4662 51-41-11. The application for reconstitution and certificate
4663 of incorporation shall be signed and acknowledged by a majority of
4664 the board of directors of the qualified corporation. When the
4665 application for reconstitution and certificate of incorporation
4666 and other required documents have been so filed with and accepted
4667 by the Secretary of State, as evidenced by the issuance by the
4668 Secretary of State of its certificate of existence in a form that
4669 the Secretary of State may deem appropriate, the water authority
4670 referred to in the application shall come into existence and shall
4671 constitute a body corporate and politic in perpetuity with power
4672 of perpetual succession and a political subdivision of the state
4673 under the name set forth in the application, and the water
4674 authority shall be vested with the rights and powers granted in
4675 this chapter and any other applicable laws. At the same time, the
4676 qualified corporation shall cease to exist and all assets and
4677 liabilities of every nature, including without limitation, all



4678 real property, personal property, certificate of public necessity
4679 and convenience, contractual obligations, lending obligations
4680 outstanding, rights afforded borrowers of federal and state funds
4681 and other tangible and intangible assets and liabilities of every
4682 nature shall, without need for further action or approval by any
4683 third party, be vested in and shall accrue to the benefit of the
4684 water authority. The water authority shall then send notice of
4685 transfer of said certificate to the Mississippi Public Service
4686 Commission.

4687 **SECTION 128.** Section 51-41-13, Mississippi Code of 1972, is
4688 brought forward as follows:

4689 51-41-13. (1) The water authority shall have a board of
4690 directors composed of the number of directors provided in the
4691 application for reconstitution and certificate of incorporation,
4692 which shall not be fewer than five (5) directors. All powers of
4693 the water authority shall be exercised by the board or under its
4694 authorization.

4695 (2) The directors shall be elected and determined, and shall
4696 serve in accordance with those procedures that the water authority
4697 may specify in its bylaws; provided, however, that each water or
4698 sewer user served by the water authority shall be entitled to vote
4699 on the election of directors of the water authority. The water
4700 authority's bylaws shall contain provisions and procedures for the
4701 election and appointment of its directors that are identical in
4702 nature to those same provisions and procedures as contained in the



4703 qualified corporation's bylaws, unless otherwise amended by the
4704 water authority or required by state law. A water authority shall
4705 promptly file a copy of any amendments to its bylaws with the
4706 Secretary of State. A water authority also may promulgate rules
4707 and regulations, not inconsistent with state law, containing
4708 provisions and procedures for the election and appointment of its
4709 directors.

4710 (3) Each director shall take and subscribe to the oath of
4711 office prescribed in Section 268, Mississippi Constitution of
4712 1890, that he will faithfully discharge the duties of the office
4713 of director, which oath shall be maintained on file by the water
4714 authority. Before entering upon the discharge of the duties of
4715 his office, each director shall be required to execute a bond
4716 payable to the State of Mississippi in the penal sum of Ten
4717 Thousand Dollars (\$10,000.00), conditioned that he will faithfully
4718 discharge the duties of his office.

4719 (4) A majority of the members of the board shall constitute
4720 a quorum for the transaction of business. No vacancy in the
4721 membership of the board shall impair the right of a quorum to
4722 exercise all the powers and duties of the water authority. A
4723 director shall continue in office until the director's successor
4724 is properly elected and accepts office.

4725 (5) The members of the board and the officers of the water
4726 authority shall serve without compensation, except that they may



4727 be reimbursed for actual expenses incurred in and about the
4728 performance of their duties.

4729 (6) All meetings and records of the water authority shall be
4730 subject to the Mississippi Open Meetings Act and the Mississippi
4731 Public Records Act.

4732 (7) All proceedings of the board shall be reduced to writing
4733 by the secretary of the water authority and appropriately recorded
4734 and maintained in a well bound book.

4735 **SECTION 129.** Section 51-41-15, Mississippi Code of 1972, is
4736 brought forward as follows:

4737 51-41-15. The officers of the water authority shall consist
4738 of a chairman, vice chairman, a secretary, a treasurer, and such
4739 other officers as the board deems necessary to accomplish the
4740 purposes for which the water authority was organized. All
4741 officers of the water authority shall be persons who receive water
4742 service from the water authority. The offices of secretary and
4743 treasurer may, but need not, be held by the same person. The
4744 treasurer or secretary-treasurer shall be required to execute a
4745 bond payable to the water authority, in a sum and with such
4746 security as fixed and approved by the board. All officers of the
4747 water authority shall be elected by the board and shall serve for
4748 those terms of office as specified in the bylaws.

4749 **SECTION 130.** Section 51-41-17, Mississippi Code of 1972, is
4750 brought forward as follows:



4751 51-41-17. The water authority shall have the following
4752 powers, acting either individually or jointly with other water
4753 authorities or public entities, together with all powers
4754 incidental thereto or necessary to the discharge thereof:

4755 (a) To have succession in its designated name;

4756 (b) To sue and be sued and to prosecute and defend
4757 suits in any court having jurisdiction of the subject matter and
4758 of the parties;

4759 (c) To make use of a seal and to alter it at pleasure;

4760 (d) To adopt and alter bylaws for the regulations and
4761 conduct of its affairs and business;

4762 (e) To acquire, whether by purchase, gift, lease,
4763 devise, or otherwise, property of every description which the
4764 board may deem necessary to the acquisition, construction,
4765 equipment, improvement, enlargement, operation, administration or
4766 maintenance of a project, and to hold title thereto;

4767 (f) To construct, enlarge, equip, improve, maintain,
4768 consolidate, administer and operate one or more projects;

4769 (g) To borrow money, including interim construction
4770 financing, for any of its purposes;

4771 (h) To sell and issue its bonds;

4772 (i) To sell and issue refunding bonds;

4773 (j) To secure any of its bonds by pledge and indenture
4774 as provided in this chapter;



4775 (k) To appoint, employ and compensate such general
4776 managers, executive directors, agents, architects, engineers,
4777 attorneys, accountants and other persons and employees as the
4778 business of the water authority may require;

4779 (l) To provide for such insurance as the board may deem
4780 advisable;

4781 (m) To invest in obligations that are direct or
4782 guaranteed obligations of the United States of America, or other
4783 securities in which public funds may be invested by any other
4784 political subdivision under the laws of this state, any of its
4785 funds that the board may determine are not presently needed for
4786 its operational purposes;

4787 (n) To contract, lease and make lease agreements
4788 respecting its properties or any part thereof;

4789 (o) To exercise the power of eminent domain in
4790 accordance with the procedures prescribed by Title 11, Chapter 27,
4791 Mississippi Code of 1972;

4792 (p) To sell, convey or otherwise dispose of any of its
4793 properties or projects; and

4794 (q) To exercise and hold the authority and power
4795 granted to water supply systems and sewer systems under Sections
4796 19-5-173, 19-5-175, 19-5-177 and 19-5-203.

4797 **SECTION 131.** Section 51-41-19, Mississippi Code of 1972, is
4798 brought forward as follows:



4799 51-41-19. Each project, all the water authority's interest
4800 therein, and all income from the project, is determined and
4801 declared by the Legislature to be public property used exclusively
4802 for a public purpose and shall be exempt from ad valorem taxation
4803 by all taxing authorities.

4804 **SECTION 132.** Section 51-41-21, Mississippi Code of 1972, is
4805 brought forward as follows:

4806 51-41-21. (1) The water authority is authorized at any
4807 time, and from time to time, to issue its bonds for the purpose of
4808 acquiring, constructing, improving, enlarging, completing and
4809 equipping one or more projects.

4810 (2) Before the water authority's proposed issuance of bonds,
4811 the water authority shall publish one (1) time in a newspaper of
4812 general circulation in the affected county or counties, notice of
4813 the proposed issuance of bonds, the approximate principal amount
4814 of bonds contemplated to be sold, a general description of the
4815 project contemplated to be constructed with bond proceeds and the
4816 date of a public meeting at which members of the public may obtain
4817 further information regarding the sale of the bonds and the
4818 development of the project. The notice shall be published at
4819 least ten (10) days before the date of the hearing. The water
4820 authority chairman, or his or her designee, shall be responsible
4821 for conducting the hearing and shall require all public comments
4822 that might pertain to the proposed issuance of bonds by the water
4823 authority. Upon compliance with the provisions of this section,



4824 no other notice, hearing or approval by any other entity or
4825 governmental unit shall be required as a condition to the issuance
4826 by the water authority of its contemplated bonds.

4827 (3) The principal of, and the interest, if any, on any bonds
4828 shall be payable out of the revenues derived from the projects
4829 with respect to which the bonds are issued, or from any other
4830 source available to the water authority.

4831 (4) None of the bonds of the water authority shall ever
4832 constitute an obligation or debt of the state, the municipality or
4833 county in which the water authority operates, the Secretary of
4834 State, or any officer or director of the water authority, or a
4835 charge against the credit or taxing powers of the state.

4836 (5) As the water authority determines, bonds of the water
4837 authority may:

4838 (a) Be issued at any time and from time to time;

4839 (b) Be in such form and denominations;

4840 (c) Have such date or dates;

4841 (d) Mature at such time or times and in such amount or
4842 amounts, provided that no bonds may mature more than forty (40)
4843 years after the date of issuance;

4844 (e) Bear interest, if applicable, payable at such times
4845 and such rate or rates as may be established by the board;

4846 (f) Be payable at such place or places within or
4847 without the State of Mississippi;



4848 (g) Be subject to such terms of redemption in advance
4849 of maturity at such prices, including such premiums; and

4850 (h) Contain such other terms and provisions as may be
4851 appropriate or necessary in the discretion of the water authority.

4852 (6) Bonds of the water authority may be sold at either
4853 public or private sale in such manner, and from time to time, as
4854 may be determined by the board to be most advantageous. The water
4855 authority may pay all expenses, premiums and commissions that the
4856 board may deem necessary or advantageous in connection with the
4857 authorization, sale and issuance of its bonds.

4858 (7) All bonds shall contain a recital that they are issued
4859 under the provisions of this chapter, which recital shall be
4860 conclusive that they have been duly authorized under the
4861 provisions of this chapter.

4862 (8) All bonds issued under the provisions of this chapter
4863 shall be and are declared to be negotiable instruments within the
4864 meaning of the negotiable instruments law of the state and shall
4865 be in registered form.

4866 (9) All bonds issued by a water authority may be validated
4867 upon the direction of the board under Sections 31-13-1 through
4868 31-13-11. The validation hearing shall be held in the county in
4869 which the principal office of the water authority is located.

4870 **SECTION 133.** Section 51-41-23, Mississippi Code of 1972, is
4871 brought forward as follows:



4872 51-41-23. Bonds shall be executed by the manual or facsimile
4873 signature of the chairman of the water authority and by manual or
4874 facsimile signature of the secretary of the water authority. In
4875 case any of the officers whose signatures appear on the bonds
4876 cease to be that officer before the delivery of the bonds, their
4877 signatures shall nevertheless be valid and sufficient for all
4878 purposes. The bonds shall be sealed with the seal of the water
4879 authority.

4880 **SECTION 134.** Section 51-41-25, Mississippi Code of 1972, is
4881 brought forward as follows:

4882 51-41-25. (1) The principal of, and interest, if any, on
4883 the bonds, may be secured by a pledge of the revenues of the water
4884 authority of that project financed by the water authority through
4885 its issuance of bonds, or from any other source that the water
4886 authority may deem necessary and appropriate, and may be secured
4887 by the creation of a mortgage and security interest encumbering
4888 the real property of the water authority, or security interest in
4889 all personal property and revenues of the water authority as set
4890 forth in the indenture.

4891 (2) The trustee under any indenture may be a trust company
4892 or bank having trust powers, whether located within or without the
4893 state.

4894 (3) The indenture may contain any agreements and provisions
4895 customarily contained in instruments securing evidences of
4896 indebtedness, including, without limiting, the generality of the



4897 foregoing provisions respecting the nature and extent of the
4898 security; the collection, segregation and application of the
4899 revenues generated from the operation of any project covered by
4900 the indenture; covenants to always operate the project as a
4901 revenue-producing undertaking and to charge and collect, including
4902 the obligation to increase from time to time, sufficient revenue
4903 to maintain income at required levels; the maintenance and
4904 insurance of the project; the creation and maintenance of reserve
4905 and other special funds; and the rights and remedies available in
4906 the event of default to the holders of the bonds or the trustees
4907 under the indenture, all as the board shall deem advisable and as
4908 shall not be in conflict with the provisions of this chapter.

4909 (4) If there is any default by the water authority in
4910 payment of the principal of, or the interest, if any, on the bonds
4911 or in any of the agreements on the part of the water authority
4912 that may properly be included in any indenture securing the bonds,
4913 the bondholders or the trustee under any indenture, as authorized
4914 in the indenture, may either in law or in equity, by suit, action,
4915 mandamus, or other proceeding, enforce payment of the principal or
4916 interest, if any, and compel performance of all duties of the
4917 board and officers of the water authority, and shall be entitled
4918 as a matter of right and regardless of the sufficiency of any such
4919 security to the appointment of a receiver in equity with all the
4920 powers of that receiver for the operation and maintenance of the



4921 project covered by the indenture and the collection, segregation,
4922 and applications of income and revenues from the project.

4923 (5) The indenture may contain provisions regarding the
4924 rights and remedies of any trustee under the indenture and the
4925 holders of the bonds and the coupons and restricting the
4926 individual rights of action of the holders of the bonds and
4927 coupons.

4928 (6) There is created a statutory lien in the nature of a
4929 mortgage lien upon any project, system or systems acquired or
4930 constructed with proceeds of bonds issued by a water authority
4931 under this chapter, including all extensions and improvements
4932 thereof or combinations thereof subsequently made, the lien shall
4933 be in favor of the holder or holders of any bonds issued under
4934 this chapter, and all that property shall remain subject to the
4935 statutory lien until the payment in full of the principal of and
4936 interest, if any, on the bonds. Any holder of the bonds or any of
4937 the coupons representing interest on the bonds may, either at law
4938 or in equity, by suit, action, mandamus or other proceedings, in
4939 any court of competent jurisdiction, protect and enforce the
4940 statutory lien and compel the performance of all duties required
4941 by this chapter, including the making and collection of sufficient
4942 rates for the service or services, the proper accounting thereof,
4943 and the performance of any duties required by covenants with the
4944 holders of any bonds issued under this chapter.



4945 If any default is made in the payment of the principal of or
4946 interest, if any, on the bonds, any court having jurisdiction of
4947 the action may appoint a receiver to administer the water
4948 authority and the project, system or systems, with power to charge
4949 and collect rates sufficient to provide for the payment of all
4950 bonds and obligations outstanding against project, system or
4951 systems, and for payment of operating expenses, and to apply the
4952 income and revenues thereof in conformity with the provisions of
4953 this chapter and any covenants with bondholders.

4954 **SECTION 135.** Section 51-41-27, Mississippi Code of 1972, is
4955 brought forward as follows:

4956 51-41-27. The principal of and interest, if any, on bonds
4957 issued under the authority of this chapter shall be exempt from
4958 all state, county and municipal taxes. This exemption shall
4959 include income, inheritance and estate taxes.

4960 **SECTION 136.** Section 51-41-29, Mississippi Code of 1972, is
4961 brought forward as follows:

4962 51-41-29. (1) The proceeds derived from all of the bonds,
4963 other than refunding bonds, may be used only to pay the costs of
4964 acquiring, constructing, improving, enlarging and equipping the
4965 project with respect to which they were issued, as may be
4966 specified in the proceedings in which the bonds are authorized to
4967 be issued and all costs incidental thereto, including, without
4968 limitation:



4969 (a) The costs of any land forming a part of the project
4970 and all easements that may pertain to or be associated with any
4971 project;

4972 (b) The costs of the labor, materials and supplies used
4973 in any construction, improvement and enlargement, including
4974 architect's and engineer's fees and the cost of preparing contract
4975 documents and advertising for bids along with all other reasonable
4976 and necessary project cost;

4977 (c) The purchase price of and the cost of installing
4978 equipment for the project;

4979 (d) Legal, fiscal, accounting and recording fees and
4980 expenses incurred in connection with the authorization, sale and
4981 issuance of the bonds issued in connection with the project;

4982 (e) Interest, if any, on bonds for a reasonable period
4983 before, during and after the time required for completion of the
4984 project;

4985 (f) The amount necessary to fund a debt service reserve
4986 in an amount deemed appropriate by the water authority;

4987 (g) Cost associated with the obtaining of default
4988 insurance ratings and other credit enhancements of every nature;
4989 and

4990 (h) Other operational expenses, reserves and other
4991 accounts of every nature.

4992 (2) If any of the proceeds derived from the issuance of
4993 bonds remains undisbursed after completion of the project and the



4994 making of all such expenditures, the balance shall be used for the
4995 redemption of bonds of the same issue.

4996 **SECTION 137.** Section 51-41-31, Mississippi Code of 1972, is
4997 brought forward as follows:

4998 51-41-31. (1) The water authority may at any time, and from
4999 time to time, issue refunding bonds for the purpose of refunding
5000 the principal of and interest, if any, on any bonds of the water
5001 authority previously issued under this chapter and then
5002 outstanding, whether or not the principal and interest have
5003 matured at the time of the refunding under this chapter, and for
5004 the payment of any expenses incurred in connection with the
5005 refunding and any premium necessary to be paid in order to redeem
5006 or retire the bonds to be refunded.

5007 (2) The proceeds derived from the sale of any refunding
5008 bonds shall be used only for the purposes for which the refunding
5009 bonds were authorized to be issued.

5010 (3) Any such refunding may be effected either by sale of the
5011 refunding bonds and the application of the proceeds thereof by
5012 immediate application or by escrow deposit, with the right to
5013 invest monies in the escrow deposit until needed for the
5014 redemption or by exchange of the refunding bonds for the bonds or
5015 interest coupons to be refunded thereby. However, the holders of
5016 any bonds so to be refunded shall not be compelled without their
5017 consent to surrender their bonds for payment or exchange before



5018 the date on which they may be paid or redeemed by the water
5019 authority under their respective provisions.

5020 (4) Any refunding bonds of the water authority shall be
5021 payable solely from the revenues out of which the bonds to be
5022 refunded were payable or from those other sources or other
5023 revenues that might be identified in the indenture.

5024 (5) All provisions of this chapter pertaining to bonds of
5025 the water authority that are not inconsistent with the provisions
5026 of this section shall, to the extent applicable, also apply to
5027 refunding bonds issued by the water authority.

5028 **SECTION 138.** Section 51-41-33, Mississippi Code of 1972, is
5029 brought forward as follows:

5030 51-41-33. This chapter shall be deemed to be full and
5031 complete authority for the creation of water authorities and the
5032 issuance of bonds as set forth in this chapter. No proceedings
5033 shall be required for the creation of water authorities or the
5034 issuance of bonds other than those provided for and required in
5035 this chapter. The board of directors of a water authority shall
5036 have all the powers necessary in order to carry out the provisions
5037 of this chapter.

5038 **SECTION 139.** Section 77-3-1, Mississippi Code of 1972, is
5039 brought forward as follows:

5040 77-3-1. Except as otherwise provided in Section 77-3-6, any
5041 public utility as defined in paragraph (d) of Section 77-3-3,
5042 owned or operated by a municipality shall not be subject to the



5043 provisions of this article, except as to extension of utilities
5044 greater than one (1) mile outside corporate boundaries after March
5045 29, 1956.

5046 **SECTION 140.** Section 77-3-5, Mississippi Code of 1972, is
5047 brought forward as follows:

5048 77-3-5. Notwithstanding any other provision of law, and
5049 subject only to the limitations imposed in this chapter and in
5050 accordance with the provisions of this chapter, the Public Service
5051 Commission shall have exclusive original jurisdiction over the
5052 intrastate business and property of public utilities and, for
5053 purposes of clarification of the existing scope of said exclusive
5054 original jurisdiction, such exclusive original jurisdiction
5055 extends, but is not limited to: the establishment of retail
5056 rates; challenges, including customer complaints, to the amount of
5057 a retail rate or customer bill or whether such rate is just and
5058 reasonable; and challenges to the validity or accuracy of rates
5059 charged by a public utility, or to the accuracy or reliability of
5060 information submitted to the Public Service Commission by a public
5061 utility or other person in support of or in opposition to a
5062 proposed or approved rate, regardless of the legal theory upon
5063 which any such challenge is made. However, the commission shall
5064 not have jurisdiction over the production and gathering of natural
5065 gas or the sale of natural gas in or within the vicinity of the
5066 field where produced, or over the facilities and equipment
5067 utilized in any such operations, including, but not limited to,



5068 such facilities as separators, scrubbers and gasoline plants of
5069 all types. Further, the commission shall not have jurisdiction
5070 over the governance, management or other internal affairs of
5071 entities as described by paragraphs (b) and (c) below. Moreover,
5072 the commission shall not have jurisdiction to regulate the rates
5073 for the sales and/or distribution:

5074 (a) Of gas, water, electricity or sewage disposal
5075 services by municipalities to such persons as said municipalities
5076 are authorized by law to serve;

5077 (b) Of gas or electricity by cooperative gas or
5078 electric power associations to the members thereof as consumers,
5079 except as provided by Section 77-3-17, where service is rendered
5080 in a municipality;

5081 (c) Of water or sewage disposal service by nonprofit
5082 corporations or associations where the governing body of such
5083 corporation or association is elected by the consumers thereof or
5084 appointed by the county board of supervisors; or

5085 (d) Of water by districts organized under the
5086 provisions of Chapter 45, Laws of 1966-1967, Extraordinary
5087 Session.

5088 **SECTION 141.** Section 77-3-97, Mississippi Code of 1972, is
5089 brought forward as follows:

5090 77-3-97. (1) The Legislature finds that the conservation of
5091 water resources is vitally important to the future of our state,
5092 and that in order to enhance the conservation of water resources,



5093 it is necessary to grant specific authority for the provision of
5094 submetering of water and wastewater disposal service.

5095 (2) As used in this section, the following words and phrases
5096 have the meanings ascribed in this subsection, unless the context
5097 clearly indicates otherwise:

5098 (a) "Apartment house" means one or more buildings
5099 containing four (4) or more dwelling units that are occupied
5100 primarily for nontransient use, including a residential
5101 condominium whether rented or owner occupied, and if a dwelling
5102 unit is rented, having rental paid at intervals of one (1) month
5103 or longer.

5104 (b) "Dwelling unit" means one or more rooms in an
5105 apartment house or condominium, suitable for occupancy as a
5106 residence, and containing kitchen and bathroom facilities, or a
5107 manufactured home in a manufactured home community.

5108 (c) "Customer" means the individual, firm or
5109 corporation in whose name a master meter has been connected by a
5110 public utility.

5111 (d) "Owner" means the legal titleholder of an apartment
5112 house or manufactured home community and any individual, firm or
5113 corporation that purports to be the landlord of tenants in the
5114 apartment house or manufactured home community.

5115 (e) "Tenant" means a person who is entitled to occupy a
5116 dwelling unit to the exclusion of others and who is obligated to
5117 pay for the occupancy under a written or oral rental agreement.



5118 (f) "Manufactured home community" means a property on
5119 which spaces are rented for the occupancy of: (i) manufactured
5120 homes for nontransient residential use and for which rental is
5121 paid at intervals of one (1) month or longer; or (ii) recreational
5122 vehicles for nontransient residential use for a time period of
5123 three (3) months or longer.

5124 (g) "Submetering" means the use of a metering device by
5125 a customer who receives water and wastewater service from a public
5126 utility, which metering device measures water supplied to a tenant
5127 for the purpose of the customer's charging the tenant of a
5128 dwelling unit separately for water and wastewater usage.

5129 (3) (a) An apartment house owner, manufactured home
5130 community owner or condominium manager may provide for submetering
5131 of each dwelling unit or rental unit for the measurement of the
5132 quantity of water consumed by the occupants of the unit. If
5133 submetering is utilized, tenants may be charged separately for
5134 water and wastewater services on a pass through allocated basis
5135 for charges incurred by the customer. The charges for a tenant
5136 may not exceed the tenant's pro rata share of all water and
5137 wastewater services used by all of the tenants in that apartment
5138 house, manufactured home community or condominium.

5139 (b) Any apartment house owner, manufactured home
5140 community owner or condominium manager utilizing submetering
5141 pursuant to this section shall disclose the submetering to each



5142 tenant and obtain from the tenant an acknowledgment of the
5143 submetering in a written document.

5144 (c) Submeters installed pursuant to this section must
5145 meet the American Water Works Association standards for accuracy.

5146 (d) In rendering charges to tenants pursuant to this
5147 section, the customer shall provide:

5148 (i) Beginning and ending meter reads;

5149 (ii) A statement that the bill is not from the
5150 public utility; and

5151 (iii) A telephone number for tenant inquiries on
5152 the bill.

5153 (e) Water and wastewater services utilized by the
5154 tenant may not be disconnected for nonpayment of submetered bills.

5155 **SECTION 142.** This act shall take effect and be in force from
5156 and after July 1, 2023.

