

By: Senator(s) Parker

To: Economic and Workforce
Development

COMMITTEE SUBSTITUTE
FOR
SENATE BILL NO. 2889

1 AN ACT TO CREATE THE MISSISSIPPI CAPITOL REGION UTILITY ACT;
2 TO ESTABLISH THE MISSISSIPPI CAPITOL REGION UTILITY AUTHORITY; TO
3 PROVIDE FOR THE APPOINTMENT OF A PRESIDENT AND A BOARD OF
4 DIRECTORS FOR SUCH AUTHORITY; TO CLARIFY THE POWERS AND DUTIES OF
5 SUCH BOARD; TO ENSURE ACCESS TO SAFE, CLEAN AND RELIABLE WATER FOR
6 THE CITIZENS OF CENTRAL MISSISSIPPI; AND FOR RELATED PURPOSES.

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

8 **SECTION 1.** This act shall be known and may be cited as the
9 "Mississippi Capitol Region Utility Act."

10 **SECTION 2.** (1) The Mississippi Legislature finds the
11 following:

12 (a) For the benefit of the citizens centrally located
13 in the State of Mississippi, including citizens residing or
14 working in the capital city of the State of Mississippi, it is
15 essential to have access to safe, clean and reliable water,
16 wastewater and storm water systems at affordable, regulated rates
17 which are just, reasonable and provide an adequate amount of
18 capital to keep such systems in good repair;

19 (b) The availability of safe, clean and reliable water,
20 wastewater and storm water have vast impacts on health, schools



21 and academic outcomes, crime and safety, state and local
22 government operations, businesses and economic development, the
23 availability of a workforce, tourism and many other critical
24 areas;

25 (c) The availability of safe, clean and reliable water,
26 wastewater and storm water systems requires significant financial
27 resources and human capital to engage in the planning,
28 acquisition, construction, maintenance, coordination and operation
29 required to deliver transparent and efficient services which meet
30 and exceed federal and state regulations and requirements;

31 (d) On November 29, 2022, the Department of Justice
32 filed a complaint alleging that the City of Jackson has failed to
33 provide drinking water that is reliably compliant with the Safe
34 Drinking Water Act to citizens within the boundaries of the water
35 system. The Department of Justice simultaneously filed a proposal
36 which would appoint a receiver, or an interim third party manager,
37 to stabilize the City of Jackson's public drinking water system
38 and build confidence in the water system's ability to supply safe,
39 clean and reliable water to citizens within the boundaries of the
40 water system. The U.S. District Court for the Southern District
41 of Mississippi appointed a receiver to oversee and operate the
42 water system on November 29, 2022.

43 (e) The receiver appointed by the U.S. District Court
44 for the Southern District of Mississippi has communicated to the
45 public the importance of creating a utility district separate and



46 distinct from the City of Jackson to assume ownership, management
47 and control over the water system currently owned by the city of
48 Jackson to operate the system after the receiver's work concludes
49 in the next two years; and

50 (f) The creation and organization of a utility district
51 prior to the date of the conclusion of the receiver's work will
52 allow the best opportunity for minimal disruption in water,
53 wastewater and storm water service and maximum ease of transition
54 after the receiver has concluded his work in overseeing and
55 operating the water system.

56 (2) Therefore, it is the intent of the Mississippi
57 Legislature to:

58 (a) Provide authority to the Mississippi Capitol Region
59 Utility Authority to transfer water, wastewater and storm water
60 services provided by the City of Jackson to the utility
61 authority's ownership, management and control when the
62 court-appointed receiver's work concludes with the water system to
63 ensure all citizens have access to safe, clean and reliable water,
64 wastewater and storm water systems at affordable, regulated rates
65 which are just, reasonable and provide an adequate amount of
66 capital to keep such systems in good repair; and

67 (b) Partner with the Mississippi Department of Health,
68 Mississippi Department of Environmental Quality, local
69 governments, including the City of Jackson, within the boundaries
70 of the utility district, and any other federal, state or local



entity in taking any action necessary under this act to ensure all citizens have access to safe, clean and reliable water, wastewater and storm water systems, with the understanding that federal and state agencies are solely responsible for regulating, but not operating, the utility authority.

SECTION 3. As used in this act, the following words and phrases have the meanings ascribed herein, unless the context clearly indicates otherwise:

(a) "Act" means the Mississippi Capitol Region Utility Act.

(b) "Board" means the Board of Directors of the Mississippi Capitol Region Utility Authority.

(c) "Bonds" means revenue bonds and other certificates of indebtedness of the authority issued under the provisions of this act.

(d) "Fiscal year" means the period of time beginning on July 1 of each year and ending on June 30 of each year.

(e) "Major procurement" means the procurement of any good or service in excess of One Million Dollars (\$1,000,000.00).

(f) "Municipality" means any incorporated city, town or village of the State of Mississippi, whether operating under general law or special charter.

(g) "Person" means the State of Mississippi, a county, a municipality, any state agency or any other city, town, village or political subdivision or governmental agency or instrumentality



96 of the State of Mississippi or of the United States of America, or
97 any private utility, individual, copartnership, association, firm,
98 trust, estate or any other entity whatsoever.

99 (h) "Project" means the construction, development or
100 acquisition by the utility authority of any infrastructure for
101 water, wastewater and storm water systems or services and includes
102 upgrading or repair of existing systems.

103 (i) "Public agency" means any county, municipality,
104 state board or utility authority owning or operating properties,
105 districts created pursuant to the general laws or local and
106 private laws of the State of Mississippi, or any other political
107 subdivision of the State of Mississippi possessing the power to
108 own and operate waterworks, water supply systems, sewerage
109 systems, sewage treatment systems or other facilities or systems
110 for the collection, transportation and treatment of water,
111 wastewater, and storm water.

112 (j) "Receiver" means the interim third-party manager
113 for the water system owned by the city of Jackson who was
114 appointed by the U.S. District Court for the Southern District of
115 Mississippi on November 29th, 2022, to oversee and operate the
116 water system during the negotiation of a consent decree related to
117 compliance with the Safe Drinking Water Act and other laws.

118 (k) "Storm water" means any flow occurring during or
119 following any form of natural precipitation and resulting from
120 that precipitation.



(l) "System" or "systems" means any plants, structures, facilities and other real and personal property used or useful in the generation, storage, transportation or supply of water, and the collection, transportation, treatment or disposal of wastewater and storm water, including tanks, lakes, streams, ponds, pipes, trunk lines, mains, sewers, conduits, pipelines, pumping and ventilating stations, plants, works, connections and any other real or personal property and rights therein necessary, useful or convenient for the purposes of the utility board or authorities in connection therewith.

(m) "Utility authority" shall mean the Mississippi Capitol Region Utility Authority.

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

(o) "Water" means potable water, service water and groundwater.

SECTION 4. (1) There is hereby created and established a public body corporate and politic constituting a political subdivision of the State of Mississippi to be known as the Mississippi Capitol Region Utility Authority. The authority will be composed of geographic areas receiving water, wastewater and storm water services from the city of Jackson as of the date of enactment of this act for the planning, acquisition, construction,



146 maintenance, operation and coordination of water, wastewater and
147 storm water systems in order to ensure the delivery of water,
148 wastewater and storm water services to citizens. Such utility
149 authority is created solely to accomplish the purposes of the
150 State under this act and the exercise by the utility authority of
151 the powers conferred by this act shall be deemed and held to be
152 the performance of an essential public function promoting the
153 health, welfare and prosperity of the general public.

154 (2) The existence of the utility authority shall begin upon
155 the appointment of a majority of its board as provided in Section
156 5 of this act.

157 (3) The utility authority shall assume ownership, management
158 and control over the water, wastewater and storm water systems on
159 the date of termination of the receiver by the U.S. District Court
160 for the Southern District of Mississippi.

161 (4) In the event of any action or matter against the utility
162 authority, the Chief Justice shall select an appropriate Circuit
163 or Chancery Court, which shall have exclusive jurisdiction over
164 the matter. For purposes of court costs, the utility authority
165 shall be a private corporation.

166 **SECTION 5.** (1) The affairs of the utility authority shall
167 be administered by the Mississippi Capitol Region Utility
168 Authority Board of Directors. The board shall be composed of nine
169 (9) members to be selected as follows: The Mayor of the City of
170 Jackson, with the advice and consent of the Senate, shall appoint



four (4) members. The Mayor of the City of Jackson shall consult with the Mayor of the City of Byram to appoint one (1) of their four (4) appointments as long as the City of Byram is included within the boundaries of the systems. The Mayor of the City of Jackson shall consult with the Mayor of the City of Ridgeland to appoint one (1) of their four (4) appointments as long as the City of Ridgeland is included within the boundaries of the systems. The Governor, with the advice and consent of the Senate, shall appoint three (3) members. The Lieutenant Governor, with the advice and consent of the Senate, shall appoint two (2) members. All members shall be appointed within sixty (60) days of the enactment of this act.

In the appointment process, appointing authorities shall attempt to see that all portions of society and its diversity are represented in members of the utility authority. All appointed members must be residents of the State of Mississippi, must be ratepayers within the system boundaries, and must have significant, demonstrated experience in business management, fiscal affairs, public health or public utilities.

(2) The initial terms of the Board of Directors shall be as follows: One (1) member appointed by the Mayor of the City of Jackson shall serve for an initial term of four (4) years. One (1) member appointed by the Mayor of the City of Jackson shall serve for an initial term of three (3) years. One (1) member appointed by the Mayor of the City of Jackson shall serve for an



196 initial term of two (2) years. One (1) member appointed by the
197 Mayor of the City of Jackson shall serve for an initial term of
198 one (1) year. The Governor shall appoint one (1) member for a
199 term of four (4) years, one (1) member for a term of three (3)
200 years, and one (1) member for a term of two (2) years. The
201 Lieutenant Governor shall appoint one (1) member for a term of
202 four (4) years and one (1) member for a term of three (3) years.

203 (3) Except as provided in Section 5(2) of this act,
204 appointments shall be for a term of four (4) years. Each member
205 shall hold office until his successor has been appointed and
206 qualified. Vacancies shall be filled by appointment by the
207 appropriate appointing authority, subject to the advice and
208 consent of the Senate, for the length of the unexpired term only.
209 Any member of the utility authority shall be eligible for
210 reappointment for a maximum of two (2) full terms. Each member of
211 the utility authority shall before entering upon his duty take an
212 oath of office to administer the duties of his office faithfully
213 and impartially, and a record of such oath shall be filed in the
214 office of the Secretary of State. The utility authority shall
215 annually elect from its membership a chairman and vice chairman
216 who shall be eligible for reelection. The utility authority shall
217 also elect or appoint, and prescribe the duties of, such other
218 officers, who need not be members, as the utility authority deems
219 necessary or advisable and the utility authority shall fix the
220 compensation of such officers. The utility authority may delegate



221 to one or more of its members, officers, employees or agents such
222 powers and duties as it may deem proper, not inconsistent with
223 this article or other provisions of law.

224 (4) The members of the utility authority shall serve without
225 salary, but shall be entitled to receive a per diem pay as
226 provided in Section 25-3-69, plus travel and necessary expenses,
227 including mileage, as provided in Section 25-3-41, incurred while
228 in the performance of his or her duties as a member of the board
229 of directors of the utility authority upon authorization by the
230 board. Expenses shall be paid from the available funds of the
231 utility authority after the utility authority assumes ownership,
232 management and control of the water, wastewater and storm systems
233 as provided in this act. Until the date the utility authority
234 assumes ownership, management and control of the water, wastewater
235 and stormwater systems as provided in this act, expenses shall be
236 paid by the State of Mississippi.

237 (5) All meetings of the board shall be subject to the Open
238 Meetings Act in Section 25-41-1 et seq. The chairman or a
239 majority of members of the utility authority may convene the board
240 for a meeting.

241 (6) Except as may be provided by law, all records of the
242 utility authority shall be deemed public records and subject to
243 public inspection as provided by Section 25-61-1 et seq.

244 (7) The board may by majority vote excuse the absence of any
245 member of the board. In the event that any member of the board is



absent for two board meetings in a twelve-month period without such absences being excused by the board, his or her membership on the board shall be terminated as a function of law, without any action by the board, and the removed member of the board shall be ineligible for reappointment to the board. The original appointing authority shall retain their right to appoint a new board member to replace the removed board member.

(8) No employee of the utility authority shall be a member of the board.

(9) Until such time that the utility district assumes ownership, management, and control of the water, wastewater and storm water systems, the board shall cooperate and coordinate with the receiver in order to provide the best opportunity to for minimal disruption in service and maximum ease of transition after the receiver has concluded his work in overseeing and operating the water system.

SECTION 6. (1) The utility authority shall consult with the receiver and the City of Jackson in appointing a president by January 1, 2024, who shall serve at the will and pleasure of the board. If the utility authority does not have ownership, management, and control of the water, wastewater and storm water systems by the date of the appointment of a president, the State of Mississippi shall pay the salary of the president on a bimonthly basis. The president shall manage the daily affairs of the utility authority and shall have such powers and duties as



specified by this act, by the board, and any rules or regulations adopted by the board. The president shall not be a member of the board. The president shall serve at the will and pleasure of the board.

(2) Until such time that the utility district assumes ownership, management, and control of the water, wastewater and storm water systems, the president shall cooperate and coordinate with the receiver in order to provide the best opportunity to for minimal disruption in service and maximum ease of transition after the receiver has concluded his work in overseeing and operating the water system.

(3) The president shall employ such personnel as he or she deems necessary. All personnel shall serve at the will and pleasure of the president, unless otherwise specified by the president.

(4) The board shall set the salary of the president at such level as is necessary to recruit and retain a qualified professional with the expertise necessary in a public utility. The board may authorize whatsoever incentive compensation program for the president and utility authority staff as it deems necessary and proper. The utility authority shall be exempt from the provisions of Section 25-3-39.

SECTION 7. (1) The utility authority shall have the power, duty and responsibility to exercise general supervision over the



design, construction, operation and maintenance of water,
wastewater and storm water systems.

(2) The utility authority shall adopt rules and regulations
regarding the design, construction or installation, operation and
maintenance of water, wastewater and storm water systems.

(3) The utility authority shall adopt rules and regulations
regarding the use of decentralized treatment systems, individual
on-site wastewater treatment systems and centralized wastewater
treatment systems.

(4) The utility authority shall adopt rules establishing
performance standards for water, wastewater and storm water
systems and the operation and maintenance of the same. Such rules
and regulations shall include the implementation of a standard
application form for the installation, operation and maintenance
of such systems; application review; approval or denial procedures
for any proposed system; inspection, monitoring and reporting
guidelines; and enforcement procedures.

(5) (a) Before a building or development which requires the
installation of a water, wastewater or storm water system is
constructed, the system must be submitted to the utility authority
for certification that the system complies with the utility
authority requirements for such system.

(b) Before approving or renewing a water, wastewater or
storm water related permit for a system within a utility



authority, the state agency must require certification that the system complies with the requirements of the utility authority.

(6) Any system of any municipality, public agency or other persons which contracts with a utility authority shall be subject to the terms of that contract and the terms of this act.

(7) Notwithstanding the provisions of Section 51-39-1 et seq., the utility authority shall have the full power to adopt rules and regulations and to construct, maintain, lease and operate facilities for the control of storm water quality and quantity. In addition, the provisions of Section 51-33-1 relating to drainage districts and flood control districts do not apply to the utility authority.

(8) The utility authority may control and operate the local retail water, wastewater or storm water services and may provide or be responsible for direct servicing of those services to residences, businesses and individuals; however, the utility authority shall not provide the same service in an area provided by a public utility or person holding a certificate of public convenience and necessity issued by the Mississippi Public Service Commission for the provision of such services in the certificated area.

SECTION 8. (1) The utility authority, in addition to any other powers granted under any other provision of law, including, but not limited to the following:



343 (a) To acquire, construct, improve, enlarge, extend,
344 repair, operate and maintain one or more of its systems used for
345 the collection, transportation, treatment and disposal of water,
346 wastewater and storm water;

347 (b) To make contracts with any person in furtherance
348 thereof; and to make contracts with any person, under the terms of
349 which the utility authority will collect, transport, treat or
350 dispose of water, wastewater and storm water for such person, and
351 to cancel any contracts existing as of the date of enactment of
352 this act;

353 (c) To make contracts with any person to design and
354 construct any water, wastewater and storm water systems or
355 facilities, and thereafter to purchase, lease or sell, by
356 installments over such terms as may be deemed desirable,
357 reasonable and necessary, or otherwise, any such system or
358 systems;

359 (d) To enter into operating agreements with any person,
360 for such terms and upon such conditions as may be deemed
361 desirable, for the operation of any water, wastewater and storm
362 water systems; and the utility authority may lease to or from any
363 person, for such term and upon such conditions as may be deemed
364 desirable, any water, wastewater and storm water collection,
365 transportation, treatment or its other facilities or systems. Any
366 such contract may contain provisions requiring any public agency
367 or other person to regulate the quality and strength of materials



to be handled by the respective system or systems and also may provide that the utility authority shall have the right to use any streets, alleys and public ways and places within the jurisdiction of a public agency or other person during the term of the contract;

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

(f) To sue and be sued, in its own name, and to enjoy all of the protections, immunities and benefits provided by the Mississippi Tort Claims Act, Section 11-46-1 et seq., as it may be amended or supplemented from time to time;

(g) To maintain office space at such place or places within the utility authority's boundaries as it may determine;



392 (h) To invest money of the utility authority, including
393 proceeds from the sale of any bonds subject to any agreements with
394 bondholders, on such terms and in such manner as the utility
395 authority deems proper;

396 (i) To pay any outstanding City of Jackson bonds
397 relating to the water and sewer systems under their existing
398 terms;

399 (j) To require the necessary relocation or rerouting of
400 roads and highways, railroad, telephone and telegraph lines, and
401 properties, electric power lines, gas pipelines and related
402 facilities, or to require the anchoring or other protection of any
403 of these, provided fair compensation is first paid to the owners
404 or an agreement with such owners regarding the payment of the cost
405 of such relocation, and to acquire easements or rights-of-way for
406 such relocation or rerouting and to convey the same to the owners
407 of the property being relocated or rerouted in connection with the
408 purposes of this act. This provision shall be in accordance with
409 Mississippi Constitution Article 17A, Section 11-27-30, and House
410 Bill No. 1769 as passed during the 2022 Legislative Session;

411 (k) To acquire, construct, improve or modify, to
412 operate or cause to be operated and maintained, either as owner of
413 all or of any part in common with others, any water, wastewater or
414 storm water system within the utility authority's service area.
415 The utility authority may pay all or part of the cost of any
416 system from any contribution by persons, firms, public agencies or



corporations. The utility authority may receive, accept and use all funds, public or private, and pay all costs of the development, implementation and maintenance as may be determined as necessary for any project;

(l) To acquire, in its own name, by purchase on any terms and conditions and in any manner as it may deem proper, property for public use, or by gift, grant, lease, or otherwise, real property or easements therein, franchises and personal property necessary or convenient for its corporate purposes. This provision shall be in accordance with Mississippi Constitution Article 17A, Section 11-27-30, and House Bill No. 1769 as passed during the 2022 Legislative Session;

(m) To acquire insurance for the utility authority's systems, facilities, buildings, treatment plants and all property, real or personal, to insure against all risks as any insurance may, from time to time, be available;

(n) To use any property and rent or lease any property to or from others, including public agencies, or make contracts for the use of the property. The utility authority may sell, lease, exchange, transfer, assign, pledge, mortgage or grant a security interest for any property. The powers to acquire, use and dispose of property as set forth in this paragraph shall include the power to acquire, use and dispose of any interest in that property, whether divided or undivided. Title to any property



of the utility authority shall be held by the utility authority exclusively for the benefit of the public;

(o) To apply, contract for, accept, receive and administer gifts, grants, appropriations and donations of money, materials and property of any kind, including loans and grants from the United States, the state, a unit of local government, or any agency, department, district or instrumentality of any of the foregoing, upon any terms and conditions as the United States, the state, a unit of local government, or any agency, department, district or instrumentality shall impose. The utility authority may administer trusts. The utility authority may sell, lease, transfer, convey, appropriate and pledge any and all of its property and assets;

(p) To make and enforce, and from time to time amend and repeal, bylaws, rules, ordinances and regulations for the management of its business and affairs and for the construction, use, maintenance and operation of any of the systems under its management and control;

(q) To employ and terminate staff and other personnel, including attorneys, engineers and consultants as may be necessary to the functioning of the utility authority;

(r) To establish and maintain rates, fees and any other charges for services and the use of systems and facilities within the control of the utility authority, and from time to time, to adjust such rates, fees and any other charges to the end that the



revenues therefrom will be sufficient at all times to pay the expenses of operating and maintaining of the facilities and treatment systems and all of the persons' obligations under any contract or bonds resolution with respect thereto or any obligation of any person under any agreement, contract, indenture or bonds resolution with respect thereto. Such rates, fees, assessments and any other charges shall be subject to the jurisdiction of the Mississippi Public Service Commission. Such rates, fees, assessments or any other charges shall be equal as levied on citizens throughout the utility authority's boundaries. For purposes of Section 77-3-33, the rates charged by the utility authority shall be just and reasonable if they are adequate to provide safe and reliable water, wastewater and storm water service to its customers, including providing an adequate amount of capital for the utility authority to perform such repairs, upgrades and improvements as it deems necessary on an ongoing basis. The Mississippi Public Service Commission shall defer to the utility authority's determination of what rates are just and reasonable absent a showing of manifest error;

(s) To adopt rules and regulations necessary to accomplish the purposes of the utility authority and to assure the payment of each participating person or public agency of its proportionate share of the costs for use of any of the systems and facilities of the utility authority and for the utility authority's proportionate share of the costs of the board;



491 (t) To enter on public or private lands, waters or
492 premises for the purpose of making surveys, borings or soundings,
493 or conducting tests, examinations or inspections for the purposes
494 of the authority, subject to responsibility for any damage done to
495 property entered;

496 (u) To accept industrial wastewater from within the
497 boundaries of the utility authority for treatment and to require
498 the pretreatment of same when, in the opinion of the utility
499 authority, such pretreatment is necessary;

500 (v) To control and operate local retail water,
501 wastewater and storm water services, and may provide or be
502 responsible for direct servicing of those services to residences,
503 businesses and individuals; however, the utility authority shall
504 not provide the same services in an area provided by a public
505 utility or person holding a certificate of public convenience and
506 necessity issued by the Mississippi Public Service Commission for
507 the provision of such services in the certificated area;

508 (w) To assume control and administer, within the
509 utility authority's jurisdiction, any water, wastewater or storm
510 water system or systems by agreement or contract with any person
511 if the person providing such services requests to be relieved of
512 that responsibility. However, the person may maintain control
513 over connections in their service areas and may charge rates, fees
514 and any other charges in addition to the rates, fees and any
515 charges of the utility authority;



516 (x) The utility authority shall have the power to
517 acquire property designated by plan to sufficiently accommodate
518 the location of water, wastewater or storm water systems and such
519 requirements related directly thereto pursuant to the provisions
520 of Title 11, Chapter 27, Mississippi Code of 1972. The utility
521 authority may acquire property necessary for any system and the
522 exercise of the powers, rights and duties conferred upon the
523 utility authority by this act. No person owning the drilling
524 rights or the right to share in production shall be prevented from
525 exploring, developing or producing oil or gas with necessary
526 rights-of-way for ingress and egress, pipelines and other means of
527 transporting such interests on any lands or interest of the
528 utility authority held or used for the purposes of this act, but
529 any such activities shall be subject to reasonable regulations by
530 the board of directors that will adequately protect the systems or
531 projects of the utility authority. This provision shall be in
532 accordance with Mississippi Constitution Article 17A and House
533 Bill No. 1769 as passed during the 2022 Legislative Session;

534 (y) To use any legally available funds to acquire,
535 rebuild, operate and maintain any existing water, wastewater or
536 storm water systems owned or operated by any person;

537 (z) To refuse to receive water, wastewater or storm
538 water from any public agency or person;

539 (aa) So long as any indebtedness on the systems of the
540 utility authority remains outstanding, to require a member public



541 agency, or other person, that all water, wastewater and storm
542 water within the boundaries of the respective utility authority be
543 disposed of through the appropriate treatment system to the extent
544 that the same may be available, but no public agency shall be
545 precluded from constructing, operating and maintaining its own
546 such system after the current indebtedness owing on the system as
547 of the date of enactment of this act, is paid in full; and

548 (bb) Adopt a seal and a symbol, and hold patents,
549 copyrights, trademarks, and service marks and enforce its rights
550 with respect thereto.

551 (3) The utility authority shall:

552 (a) Submit annual reports to the Governor, Lieutenant
553 Governor, Speaker of the House of Representatives, State Auditor,
554 Joint Legislative Committee on Performance Evaluation and
555 Expenditure Review and the governing authorities of any
556 municipality whose citizens are within the utility authority's
557 boundaries regarding the water quality and financial conditions of
558 such system or systems, as well as a schedule of currently planned
559 repairs, upgrades or improvements planned by the utility
560 authority;

561 (b) Immediately submit to the Governor, Lieutenant
562 Governor, Speaker of the House of Representatives and the
563 governing authorities of any municipality whose citizens are
564 within the utility authority's boundaries any information received
565 from the Mississippi State Department of Health or Department of



Environmental Quality or other state or federal regulatory agencies regarding the condition of a transferred eligible municipal system. The utility authority, in addition to abiding by any other federal or state reporting requirements, must also report such information to the public on its website and to individuals residing within the municipality as required by federal or state law;

(c) Publish audited annual financial statements, which shall be made available to the public. The annual financial statements shall include disposition of all funds expended by the Utility authority for any purpose. Quarterly financial statements shall be made available to the public by posting on the Utility authority's website;

(d) Adopt by administrative rules and regulations a system of continuous internal audits;

(e) Adopt by administrative rules and regulations a code of ethics for officers and employees of the utility authority to carry out the standards of conduct established by this act; and

(f) Adopt by administrative rules and regulations guidelines for the disposal of property if the utility authority is dissolved.

SECTION 9. (1) The president, as executive director of the utility authority, if so appointed by the utility authority, shall direct and supervise all administrative and technical activities in accordance with the provisions of this act, within the



591 administrative rules and regulations adopted by the board, and in
592 accordance with industry practice. The president shall:

593 (a) Supervise and administer or contract for the
594 supervision and administration of the water, wastewater and storm
595 water systems owned, managed or controlled by the utility
596 authority.

597 (b) Employ and direct such personnel as may be
598 necessary to carry out the purposes of this act and utilize such
599 services, personnel or facilities of the utility authority as he
600 or she may deem necessary.

601 (c) Make available for inspection by the board or any
602 member of the board or the Governor, Lieutenant Governor, Speaker
603 of the House or the governing authorities of any municipality
604 whose citizens are served by the utility authority, upon request,
605 all books, records, files and other information and documents of
606 his or her office and advise the board and recommend such
607 administrative rules and regulations and other matters he or she
608 deems necessary and advisable to improve the operation and
609 administration of the utility authority.

610 (d) Attend meetings of the board or appoint a designee
611 to attend on his or her behalf.

612 (e) Not later than thirty (30) days before the
613 beginning of the utility authority's fiscal year, submit the
614 proposed annual budget of the utility authority to the board for
615 review and approval. This shall include a schedule of planned



repairs, upgrades or improvements to the systems and the anticipated capital cost of each. In addition, the proposed annual budget of the utility authority shall include a personnel table reporting information for each full-time and part-time permanent position, as follows:

(i) The position title and the salary for each position in the existing operating budget for the current fiscal year, indicating whether each position is filled or vacant as of the reporting date; and

(ii) The position title and the salary recommended for each position for the next fiscal year.

(f) The president shall require bond of fifty thousand dollars (\$50,000.00) from employees with access to funds or in such an amount as provided in the administrative rules and regulations of the board.

(2) The president may:

(a) Require bond from other employees as he or she deems necessary; and

(b) For good cause, and with approval from the majority of the board, suspend, revoke or refuse to renew any contract entered into in accordance with this act or the administrative rules and regulations of the board.

(c) Upon specific or general approval of the board, enter into personal service contracts pursuant to administrative rules and regulations adopted by the board and compensate such



consultants and technical assistants as may be required to carry out the provisions of this act.

(3) Agencies, departments or units of state government, including, but not limited to, the Mississippi Department of Health and the Mississippi Department of Environmental Quality, shall cooperate with the utility authority to regulate the utility authority and assure the effective operation of the utility authority's systems, with the understanding that such agencies act as a regulator and not operator of such systems. All state officers are hereby empowered and required to render such services to the utility authority within their respective functions as may be requested by the utility authority.

SECTION 10. Employees of the utility authority shall serve at the will and pleasure of the president who shall determine their compensation and benefits. The compensation of officers at the division head level and above shall be determined by the board.

SECTION 11. Neither the directors of the utility authority, the board, its employees, nor any person or persons acting on their behalf, while acting within the scope of their authority, shall be subject to personal liability resulting from carrying out any of the powers granted herein in accordance with his or her good faith belief that he or she is acting in the best interests of the utility authority.



SECTION 12.

(1) The utility authority shall enter into its contracts for major procurements after a competitive and open procurement process. The utility authority may adopt administrative rules and regulations pursuant to the provisions of this act providing for special procedures whereby the utility authority may make any class of procurement. The utility authority shall endeavor to ensure the transparency and competitiveness of procurements of all sizes.

(2) In its bidding processes, the utility authority may do its own bidding and procurement or may utilize the services of other state agencies as appropriate and necessary. The president may, with the approval of a majority of the board, declare an emergency for purchasing purposes which shall be governed by the administrative rules and regulations adopted by the board.

SECTION 13.

All monies received by the utility authority shall be deposited into an operating account. Such account shall be established in a custodian financial institution domiciled in the State of Mississippi, insured by the Federal Deposit Insurance Corporation and collateralized as prescribed by Section 27-105-5.

SECTION 14.

All division heads, officers and employees of the utility authority shall be considered public servants as defined in Section 25-4-103. All division heads and officers of the utility authority are subject to Section 25-4-25 and shall be required to file a Statement of Economic Interest with the Mississippi Ethics Commission.



SECTION 15.

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

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

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



713 (4) Any public agency may lease to or from the utility
714 authority, for such term and upon such conditions as may be deemed
715 desirable, any of its systems.

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

718 (6) Any such contract may contain provisions requiring any
719 public agency or other person to regulate the quality and strength
720 of the material to be handled by the wastewater or storm water
721 systems and may also provide that the utility authority shall have
722 the right to use any streets, alleys and public ways and places
723 within the jurisdiction of a public agency or other person during
724 the term of the contract. Such contracts may obligate the public
725 agency to make payments to the utility authority or to a trustee
726 in amounts which shall be sufficient to enable the utility
727 authority to defray the expenses of administering, operating and
728 maintaining its respective systems, to pay interest and principal
729 (whether at maturity upon redemption or otherwise) on bonds of the
730 utility authority, issued under this act and to fund reserves for
731 debt service, for operation and maintenance and for renewals and
732 replacements, to fulfill the requirements of any rate covenant
733 with respect to debt service coverage contained in any resolution,
734 trust indenture or other security agreement relating to the bonds
735 of the utility authority issued under this act or to fulfill any
736 other requirement relating to bonds issued pursuant to this act.



(7) Any public agency shall have the power to enter into such contracts with the utility authority as in the discretion of the governing body of the public agency would be in the best interest of the public agency. Such contracts may include a pledge of the full faith and credit of such public agency and/or the avails of any special assessments made by such public agency against property receiving benefits, as now or hereafter are provided by law. Any such contract may provide for the sale, or lease to, or use of by the utility authority, of the systems or any part thereof, of the public agency; and may provide that the utility authority shall operate its systems or any part thereof of the public agency; and may provide that any public agency shall have the right to continued use and/or priority use of the systems or any part thereof during the useful life thereof upon payment of reasonable charges therefor; and may contain provisions to assure equitable treatment of persons or public agencies who contract with the utility authority under this act; and may contain such other provisions and requirements as the parties thereto may determine to be appropriate or necessary. Such contracts may extend over any period of time, notwithstanding any provisions of law to the contrary, and may extend beyond the life of the respective systems or any part thereof or the term of the bonds sold with respect to such facilities or improvements thereto.

(8) The obligations of a public agency arising under the terms of any contract referred to in this act, whether or not



payable solely from a pledge of revenues, shall not be included within the indebtedness limitations of the public agency for purposes of any constitutional or statutory limitation or provision. To the extent provided in such contract and to the extent such obligations of the public agency are payable wholly or in part from the revenues and other monies derived by the public agency from the operation of its systems or of its combined systems, or any part thereof, such obligations shall be treated as expenses of operating such systems.

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

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



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

SECTION 16. Whenever a public agency shall have executed a contract under this act and the payments thereunder are to be made either wholly or partly from the revenues of the public agency's systems, or any part thereof, or a combination of such systems, the duty is hereby imposed on the public agency to establish and maintain and from time to time to adjust the rate or fees charged by the public agency for the services of such systems, so that the revenues therefrom, together with any taxes and special assessments levied in support thereof, will be sufficient at all times to pay:

(a) The expense of operating and maintaining such systems, including, but not limited to, all of the public agency's obligations to the utility authority and the cost required to staff such systems, its successors or assigns under such contract; and

(b) All of the public agency's obligations under and in connection with bonds theretofore issued, or which may be issued thereafter and secured by the revenues of such systems. Any such contract may require the use of consulting engineers and financial



experts to advise the public agency whether and when such rates and fees are to be adjusted.

SECTION 17. (1) Notwithstanding the provisions of Sections 77-3-21 and 77-3-23, the certificate of public convenience and necessity held by any municipality, public agency, district, public utility or other person authorized by law to provide water, sewer and wastewater services may be cancelled and its powers, duties and responsibilities transferred to the utility authority in the manner provided by this section.

(2) Any entity described in subsection (1) of this section desiring to have its certificate of public convenience and necessity cancelled and its powers, duties and responsibilities transferred to the utility authority shall make a determination to that effect on its official minutes if a public entity, or by affidavit if not a public entity, and transmit such determination to the utility authority.

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

(4) Upon completion of the requirements of subsections (2) and (3) of this section herein and agreement by both parties to the transfer, the holder of the certificate of public convenience and necessity and the utility authority shall jointly petition the



Public Service Commission to cancel the certificate of public convenience and necessity. The petition must be accompanied by copies of the official minutes, affidavit or resolution, as the case may be, reflecting the actions of the petitioners. After review of the petition and any other evidence as the Public Service Commission deems necessary, the commission may issue an order canceling the certificate and transferring to the utility authority the powers, duties and responsibilities granted by the certificate, including all assets and debts of the transferor petitioner related to such certificated services, real or personal, or both, if it finds that:

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

(b) Such action is in the public interest.

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

(6) Nothing herein shall require a municipality currently served by the utility authority to remain within the boundaries of the utility authority.



SECTION 18.

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

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

SECTION 19.

(1) Sections 18 through 27 of this act apply to all bonds to be issued after the date of enactment of this act, and such provisions shall not affect, limit or alter the rights and powers of any utility authority under this act or any law of Mississippi to conduct the activities referred to herein in any way pertinent to the interests of the bondholders, including, without limitation, such utility authority's right to charge and collect rates, fees and charges and to fulfill the terms of any covenants made with the registered owners of any existing bonds, or in any other way impair the rights and remedies of the registered owners of any existing bonds, unless provision for full payment of such bonds, by escrow or otherwise, has been made pursuant to the terms of the bonds or the resolution, trust indenture or security interest securing the bonds.



(2) The utility authority shall have the power and is hereby authorized, from time to time, to borrow money and to issue revenue bonds and interim notes in such principal amounts as the utility authority may determine to be necessary to provide sufficient funds for achieving one or more of the purposes of this act, including, without limiting the generality of the foregoing, to defray all the costs of the project, the cost of the acquisition, construction, improvement, repair or extension of a system, or any part thereof, whether or not such facilities are owned by the utility authority, the payment of interest on bonds of the utility authority issued pursuant to this act, establishment of reserves to secure such bonds and payment of the interest thereon, expenses incident to the issuance of such bonds and to the implementation of the utility authority's system, and all other expenditures of the utility authority incident to or necessary or convenient to carry out the purposes of this act.

(3) Before issuing bonds, other than interim notes or refunding bonds as provided in Section 20 of this act, the board of directors of the utility authority shall adopt a resolution declaring its intention to issue such bonds and stating the maximum principal amount of bonds proposed to be issued, a general generic description of the proposed improvements and the proposed location thereof and the date, time and place at which the board of directors proposes to take further action with respect to the issuance of such bonds. The resolution shall be published once a



911 week for at least three (3) consecutive weeks in at least one (1)
912 newspaper having a general circulation within the geographical
913 limits of all of the public agencies which have contracted with
914 the utility authority pursuant to this act.

915 (4) Bonds of the utility authority issued pursuant to this
916 act shall be payable from and secured by a pledge of all or any
917 part of the revenues under one or more contracts entered into
918 pursuant to this act between the utility authority and one or more
919 of its contracting public agencies and from all or any part of the
920 revenues derived from the operation of any designated system or
921 any part or parts thereof and any other monies legally available
922 and designated therefor, as may be determined by such utility
923 authority, subject only to any agreement with the purchasers of
924 the bonds. Such bonds may be further secured by a trust indenture
925 between such utility authority and a corporate trustee, which may
926 be any trust company or bank having powers of a trust company
927 without or within the state.

928 (5) Bonds of the utility authority issued pursuant to this
929 act shall be authorized by a resolution or resolutions adopted by
930 a majority affirmative vote of the total membership of the board
931 of directors of the utility authority. Such bonds may be issued
932 in series, and each series of such bonds shall bear such date or
933 dates, mature at such time or times, bear interest at such rate or
934 rates (not exceeding the maximum rate set out in Section
935 75-17-103, Mississippi Code of 1972), be in such denomination or



denominations, be in such form, carry such conversion privileges, have such rank or priority, be executed in such manner and by such officers, be payable from such sources in such medium of payment at such place or places within or without the state, provided that one such place shall be within the state, and be subject to such terms of redemption prior to maturity, all as may be provided by resolution or resolutions of the board of directors. The term of such bonds issued pursuant to this act shall not exceed forty (40) years.

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

(7) Any pledge of earnings, revenues or other monies made by the utility authority shall be valid and binding from the time the pledge is made. The earnings, revenues or other monies so pledged and thereafter received by such utility authority shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act, and the lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against such utility authority irrespective of whether such parties have notice



thereof. Neither the resolution nor any other instrument by which a pledge is created need be recorded.

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

(9) Proceeds from the sale of bonds of the utility authority may be invested, pending their use, in such securities as may be specified in the resolution authorizing the issuance of the bonds or the trust indenture securing them, and the earnings on such investments applied as provided in such resolution or trust indenture.

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

(11) The utility authority has the discretion to advance or borrow funds needed to satisfy any short-term cash flow demands or



deficiencies or to cover start-up costs until such time as sufficient bonds, assets and revenues have been secured to satisfy the needs of the utility authority.

SECTION 20. (1) The utility authority may, by resolution adopted by its board of directors, issue refunding bonds for the purpose of paying any of its bonds at or prior to maturity or upon acceleration or redemption. Refunding bonds may be issued at such time prior to the maturity or redemption of the refunded bonds as the board of directors deems to be in the public interest, without an election on the question of the issuance thereof. The refunding bonds may be issued in sufficient amounts to pay or provide the principal of the bonds being refunded, together with any redemption premium thereon, any interest accrued or to accrue to the date of payment of such bonds, the expenses of issue of the refunding bonds, the expenses of redeeming the bonds being refunded, and such reserves for debt service or other capital or current expenses from the proceeds of such refunding bonds as may be required by the resolution, trust indenture or other security instruments. The issue of refunding bonds, the maturities and other details thereof, the security therefor, the rights of the holders and the rights, duties and obligations of the utility authority in respect of the same shall be governed by the provisions of this act relating to the issue of bonds other than refunding bonds insofar as the same may be applicable. Any such refunding may be effected, whether the obligations to be refunded



shall have then matured or shall thereafter mature, either by the exchange of the refunding bonds for the obligations to be refunded thereby with the consent of the holders of the obligations so to be refunded, or by sale of the refunding bonds and the application of the proceeds thereof to the payment of the obligations proposed to be refunded thereby, and regardless of whether the obligations proposed to be refunded shall be payable on the same date or different dates or shall be due serially or otherwise.

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

SECTION 21. All bonds (other than refunding bonds, interim notes and certificates of indebtedness, which may be validated) issued pursuant to this act shall be validated as now provided by law in Sections 31-13-1 through 31-13-11, Mississippi Code of 1972; however, notice of such validation proceedings shall be addressed to the citizens of the respective public agencies (a) which have contracted with the utility authority pursuant to this act, and (b) whose contracts and the payments to be made by the public agencies thereunder constitute security for the bonds of such utility authority proposed to be issued, and that such notice shall be published at least once in a newspaper or newspapers having a general circulation within the geographical boundaries of each of the contracting public agencies to whose citizens the



notice is addressed. Such validation proceedings shall be instituted in any chancery courts within the boundaries of the utility authority. The validity of the bonds so validated and of the contracts and payments to be made by the public agencies thereunder constituting security for the bonds shall be forever conclusive against the utility authority and the public agencies which are parties to said contracts; and the validity of said bonds and said contracts and the payments to be made thereunder shall never be called in question in any court in this state.

SECTION 22. Bonds issued under the provisions of this act shall not be deemed to constitute, within the meaning of any constitutional or statutory limitation, an indebtedness of the utility authority or the state. Such bonds shall be payable solely from the revenues or assets of the utility authority pledged therefor. Each bond issued under this act shall contain on the face thereof a statement to the effect that such utility authority, nor the state, shall not be obligated to pay the same nor the interest thereon except from the revenues or assets pledged therefor.

SECTION 23. The utility authority shall have power in connection with the issuance of its bonds pursuant to this act to:

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

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



1061 (c) Covenant to charge rates, fees and charges
1062 sufficient to meet operating and maintenance expenses, renewals
1063 and replacements, principal and debt service on bonds, creation
1064 and maintenance of any reserves required by a bonds resolution,
1065 trust indenture or other security instrument and to provide for
1066 any margins or coverages over and above debt service on the bonds
1067 deemed desirable for the marketability of the bonds;

1068 (d) Covenant and prescribe as to events of default and
1069 terms and conditions upon which any or all of its bonds shall
1070 become or may be declared due before maturity, as to the terms and
1071 conditions upon which such declaration and its consequences may be
1072 waived and as to the consequences of default and the remedies of
1073 the registered owners of the bonds;

1074 (e) Covenant as to the mortgage or pledge of or the
1075 grant of a security interest in any real or personal property and
1076 all or any part of the revenues from any designated system or any
1077 part thereof or any revenue-producing contract or contracts made
1078 by a utility authority with any person to secure the payment of
1079 bonds, subject to such agreements with the registered owners of
1080 bonds as may then exist;

1081 (f) Covenant as to the custody, collection, securing,
1082 investment and payment of any revenues, assets, monies, funds or
1083 property with respect to which a utility authority may have any
1084 rights or interest;



1085 (g) Covenant as to the purposes to which the proceeds
1086 from the sale of any bonds then or thereafter to be issued may be
1087 applied, and the pledge of such proceeds to secure the payment of
1088 the bonds;

1089 (h) Covenant as to the limitations on the issuance of
1090 any additional bonds, the terms upon which additional bonds may be
1091 issued and secured, and the refunding of outstanding bonds;

1092 (i) Covenant as to the rank or priority of any bonds
1093 with respect to any lien or security;

1094 (j) Covenant as to the procedure by which the terms of
1095 any contract with or for the benefit of the registered owners of
1096 bonds may be amended or abrogated, the amount of bonds the
1097 registered owners of which must consent thereto, and the manner in
1098 which such consent may be given;

1099 (k) Covenant as to the custody of any of its
1100 properties or investments, the safekeeping thereof, the insurance
1101 to be carried thereon, and the use and disposition of insurance
1102 proceeds;

1103 (l) Covenant as to the vesting in a trustee or
1104 trustees, within or outside the state, of such properties, rights,
1105 powers and duties in trust as such utility authority may
1106 determine;

1107 (m) Covenant as to the appointing and providing for the
1108 duties and obligations of a paying agent or paying agents or other
1109 fiduciaries within or outside the state;



1110 (n) Make all other covenants and to do any and all such
1111 acts and things as may be necessary or convenient or desirable in
1112 order to secure its bonds, or in the absolute discretion of the
1113 utility authority tend to make the bonds more marketable,
1114 notwithstanding that such covenants, acts or things may not be
1115 enumerated herein; it being the intention hereof to give any
1116 utility authority power to do all things in the issuance of bonds
1117 and in the provisions for security thereof which are not
1118 inconsistent with the Constitution of the state; and

1119 (o) Execute all instruments necessary or convenient in
1120 the exercise of the powers herein granted or in the performance of
1121 covenants or duties, which may contain such covenants and
1122 provisions, as any purchaser of the bonds of the utility authority
1123 may reasonably require.

1124 **SECTION 24.** The utility authority may, in any authorizing
1125 resolution of the board of directors, trust indenture or other
1126 security instrument relating to its bonds issued pursuant to this
1127 act, provide for the appointment of a trustee who shall have such
1128 powers as are provided therein to represent the registered owners
1129 of any issue of bonds in the enforcement or protection of their
1130 rights under any such resolution, trust indenture or security
1131 instrument. The utility authority may also provide in such
1132 resolution, trust indenture or other security instrument that the
1133 trustee, or in the event that the trustee so appointed shall fail
1134 or decline to so protect and enforce such registered owners'



1135 rights then such percentage of registered owners as shall be set
1136 forth in, and subject to the provisions of, such resolution, trust
1137 indenture or other security interest, may petition the court of
1138 proper jurisdiction for the appointment of a receiver of the
1139 utility authority's systems, the revenues of which are pledged to
1140 the payment of the principal of and interest on the bonds of such
1141 registered owners. Such receiver may exercise any power as may be
1142 granted in any such resolution, trust indenture or security
1143 instrument to enter upon and take possession of, acquire,
1144 construct or reconstruct or operate and maintain such system, fix
1145 charges for services of the system and enforce collection thereof,
1146 and receive all revenues derived from such system or facilities
1147 and perform the public duties and carry out the contracts and
1148 obligations of such utility authority in the same manner as such
1149 utility authority itself might do, all under the direction of such
1150 court.

1151 **SECTION 25.** (1) The exercise of the powers granted by this
1152 act will be in all respects for the benefit of the people of the
1153 state, for their well-being and prosperity and for the improvement
1154 of their social and economic conditions, and the utility authority
1155 shall not be required to pay any tax or assessment on any property
1156 owned by the utility authority under the provisions of this act or
1157 upon the income therefrom; nor shall the utility authority be
1158 required to pay any recording fee or transfer tax of any kind on
1159 account of instruments recorded by it or on its behalf.



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

SECTION 26. All bonds issued under the provisions of this act shall be legal investments for trustees, other fiduciaries, savings banks, trust companies and insurance companies organized under the laws of the State of Mississippi; and such bonds shall be legal securities which may be deposited with and shall be received by all public officers and bodies of the state and all municipalities and other political subdivisions thereof for the purpose of securing the deposit of public funds.

SECTION 27. The state hereby covenants with the registered owners of any bonds of any utility authority that so long as the bonds are outstanding and unpaid the state will not limit or alter the rights and powers of any utility authority under this act to conduct the activities referred to herein in any way pertinent to the interests of the bondholders, including, without limitation, such utility authority's right to charge and collect rates, fees, assessments and charges and to fulfill the terms of any covenants made with the registered owners of the bonds, or in any other way impair the rights and remedies of the registered owners of the bonds, unless provision for full payment of such bonds, by escrow



or otherwise, has been made pursuant to the terms of the bonds or the resolution, trust indenture or security interest securing the bonds.

SECTION 28. For the purposes of satisfying any temporary cash flow demands and deficiencies, and to maintain a working balance for the utility authority, the county, municipalities or public agencies within the geographic boundaries of the utility authority, or other persons, subject to their lawful authority to do so, are authorized to advance, at any time, such funds which, in its discretion, are necessary, or borrow such funds by issuance of notes, for initial capital contribution and to cover start-up costs until such times as sufficient bonds, assets and revenues have been secured to satisfy the needs of the utility authority for its management, operation and formation. To this end, the county, municipality, public agency or person, subject to their lawful authority to do so, shall advance such funds, or borrow such funds by issuance of notes, under such terms and conditions as may be provided by resolution of the governing body, or other persons as defined in this act, subject to their lawful authority to do so, except that each such resolution shall state:

- (a) The need for the proceeds advanced or borrowed;
- (b) The amount to be advanced or the amount to be borrowed;



1208 (c) The maximum principal amount of any note issued the
1209 interest rate or maximum interest rate to be incurred, and the
1210 maturity date of said note;

1211 (d) In addition, the governing body, or other persons
1212 as defined in this act, subject to their lawful authority to do
1213 so, may arrange for lines of credit with any bank, firm or person
1214 for the purpose of providing an additional source of repayment for
1215 notes issued pursuant to this section. Amounts drawn on a line of
1216 credit may be evidenced by negotiable or nonnegotiable notes or
1217 other evidences of indebtedness and contain such terms and
1218 conditions as the governing body, or other persons as defined in
1219 this act, subject to their lawful authority to do so, may
1220 authorize in the resolution approving the same;

1221 (e) The governing body of the county, municipalities or
1222 other persons as defined in this act, subject to their lawful
1223 authority to do so, may authorize the repayment of such advances,
1224 notes, lines of credit and other debt incurred under this section,
1225 along with all costs associated with the same, including, but not
1226 limited to, rating agency fees, printing costs, legal fees, bank
1227 or trust company fees, line of credit fees and other charges to be
1228 reimbursed by the utility authority under such terms and
1229 conditions as are reasonable and are to be provided for by
1230 resolution of the governing body, or terms agreed upon with other
1231 persons as defined in this act, subject to their lawful authority
1232 to do so;



1233 (f) In addition, the governing body of the county,
1234 municipality or public agency may lease or donate office space and
1235 equipment to the utility authority under such terms and conditions
1236 as are reasonable and are to be provided for by resolution of the
1237 governing body, or terms agreed upon by the utility authority.

1238 **SECTION 29.** This act being necessary for the welfare of the
1239 state and its inhabitants shall be liberally construed to effect
1240 the purposes thereof. If any section, provision, paragraph,
1241 sentence, phrase, or word of this act shall be held invalid by any
1242 court of competent jurisdiction, the remainder of this act shall
1243 not be affected thereby.

1244 **SECTION 30.** Sections 1 through 29 of this act shall be
1245 codified in Title 77, Mississippi Code of 1972.

1246 **SECTION 31.** This act shall take effect and be in force from
1247 and after July 1, 2023.

