

By: Senator(s) Hickman

To: Local and Private

COMMITTEE SUBSTITUTE
FOR
SENATE BILL NO. 3141

1 AN ACT TO AMEND CHAPTER 948, LOCAL AND PRIVATE LAWS OF 2014,
2 TO AUTHORIZE THE BOARD OF SUPERVISORS OF KEMPER COUNTY,
3 MISSISSIPPI, TO EXPAND THE SCOPE OF AUTHORITY OF THE KEMPER COUNTY
4 GAS DISTRICT TO BECOME A COUNTY UTILITY DISTRICT WITH THE
5 AUTHORITY TO ADMINISTER ADDITIONAL PUBLIC UTILITY SERVICES,
6 INCLUDING, BUT NOT LIMITED TO, THE PROVISION OF DRINKING WATER; TO
7 REVISE THE NAME OF THE KEMPER COUNTY GAS DISTRICT TO BE THE KEMPER
8 COUNTY UTILITY DISTRICT; AND FOR RELATED PURPOSES.

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

10 **SECTION 1.** The Board of Supervisors of Kemper County is
11 authorized, in their discretion, to expand the scope of authority
12 of the Kemper County Gas District to become the Kemper County
13 Utility District and provide additional public utility services,
14 including, but not limited to, the provision of drinking water,
15 storm water, wastewater, and sewerage.

16 **SECTION 2.** Chapter 948, Local and Private Laws of 2014, is
17 amended as follows:

18 Section 1. The Board of Supervisors of Kemper County,
19 Mississippi, is authorized to create and participate in the
20 "Kemper County * * * Utility District."



21 Section 2. The Kemper County * * * Utility District shall be
22 activated by resolution duly adopted and entered on the minutes of
23 the Board of Supervisors of Kemper County, Mississippi. The
24 district shall be composed of all of Kemper County, Mississippi,
25 less and except any areas that are certificated prior to the
26 effective date of this act. The district shall not provide the
27 same utility service in an area where an entity holding a
28 certificate of public convenience and necessity issued by the
29 Public Service Commission is already actively providing this
30 service, nor where an entity obtains a new certificate of public
31 convenience and necessity from the Public Service Commission after
32 the effective date of this act. The Kemper County * * * Utility
33 District shall, upon the request of any natural gas operator,
34 release from the district any areas for which the natural gas
35 operator has been issued a certificate of public convenience and
36 necessity by the Mississippi Public Service Commission after the
37 effective date of this act.

38 Section 3. The Kemper County * * * Utility District shall be
39 and is declared to be a valid political subdivision of the State
40 of Mississippi, with the power to sue and be sued and to contract
41 and be contracted with.

42 Section 4. It is found and declared that the * * * purpose
43 of creating the Kemper County Utility District is to provide * * *
44 new utility services, including, but not limited to, natural gas
45 and drinking water, to and within the area described in Section 2



46 of this act as economically feasible, to enable existing utility
47 service providers to improve service within Kemper County by
48 facilitating cooperation between them and administering projects
49 of mutual benefit, to provide a path for voluntary consolidation
50 of existing rural utility systems and to provide ways and means to
51 carry out and accomplish * * * these purposes, thereby benefiting
52 and making more valuable the lands in the district and preserving
53 and promoting the health, safety and convenience of the
54 businesses, industrial sites and other residents of the district.
55 In order to carry out and render effective * * * these purposes
56 the courts of this state shall construe this act as an exercise by
57 the Legislature of all the power appertaining to it, necessary for
58 the benefit of the health, safety and convenience of the
59 businesses, industrial sites and other residents of the district;
60 and the necessity in the public interest of the state at large for
61 the provision of this act are declared as a matter of legislative
62 determination. All the terms and provisions of this act are to be
63 liberally construed to effectuate the purposes set forth in this
64 act and all powers required to accomplish the purposes of this act
65 are granted and conferred, including the power to employ staff and
66 other personnel, including consultants, engineers and attorneys at
67 such reasonable compensation as the board of commissioners
68 determines.

69 Section 5. (1) (a) From and after the effective date of
70 this act, the powers of the * * * Utility District shall be vested



71 in and exercised by an interim board of commissioners which shall
72 consist of six (6) members to be appointed by the Board of
73 Supervisors of Kemper County. The terms of office of the members
74 appointed by the board of supervisors shall expire upon completion
75 of the construction of the district's natural gas transmission and
76 distribution system and the selection of resident members of the
77 board as provided in subsection (2) of this section.

78 (b) The resident members of the board to serve after
79 the initial appointees' terms have expired shall be selected in
80 the manner prescribed in subsection (2) of this section.

81 (2) Promptly upon the commencement of natural gas service by
82 the district to not less than one hundred (100) individually
83 billed users, the commissioners shall give notice to each
84 individually billed user of any of the district's utility services
85 of an initial election to be held at a time not less than thirty
86 (30) days nor more than sixty (60) days from such date. The
87 notice shall state the time, place and manner in which the users
88 may vote upon the selection of subsequent resident members of the
89 board to serve terms of one (1), two (2) and three (3) years,
90 respectively, by ballot of all users of the district. Such
91 election shall be held in a manner and according to procedures to
92 be established by rules and regulations adopted by the board of
93 commissioners before the giving of notice of such election, and a
94 printed copy of such rules and regulations shall accompany the
95 notice to be forwarded by regular mail to the users.



96 Rules and regulations for the conduct of the election shall
97 provide for a method of nomination of commissioners, notice of
98 such nominations to be provided to users not less than thirty (30)
99 days before the date upon which the election is to be held, along
100 with a method of balloting by mail as well as personal attendance
101 at the time and place of election, a method of balloting by proxy
102 vote, and a method of making additional nominations by users in
103 addition to any nominations proposed by the board of
104 commissioners. The time of the election shall be fixed between
105 the hours of 10:00 a.m. and 7:00 p.m. on a day of the week other
106 than Sunday.

107 In this and all succeeding elections, each user of the
108 district shall have one (1) vote; provided that when a billing is
109 made to more than one (1) person at a single location, each such
110 person shall be limited to casting a pro rata share of the one (1)
111 vote to which the billing location is entitled.

112 Subsequent to the initial election, there shall be held an
113 election annually on a date and in a manner substantially
114 conforming to the initial election, except that in each annual
115 election following the initial election, commissioners shall be
116 elected to terms of three (3) years.

117 (3) Vacancies in the office of commissioner during the
118 interim period shall be filled by the Board of Supervisors of
119 Kemper County and, following the holding of the initial election,



120 shall be filled for the unexpired term by the remaining
121 commissioners.

122 Section 6. (1) In addition to any other powers granted
123 under any other provision of law, the board of commissioners
124 shall:

125 (a) Have the power to make such rules and regulations
126 as it deems necessary to the operation of the district and the
127 subsequent election of commissioners;

128 (b) Possess all necessary power and authority to
129 construct, acquire, improve, enlarge, operate, maintain, dispose
130 of, administer and manage a natural gas transmission and
131 distribution system, drinking water facilities, storm water
132 facilities, and wastewater and sewer facilities, including, but
133 not limited to:

134 (i) The authority to contract with public or
135 private entities for the operation, management and administration
136 of the system;

137 (ii) The authority to apply for, contract for, and
138 accept money and property from any source, public or private,
139 including, but not limited to, in lieu payments, grants and loans
140 from federal and state agencies, government appropriations, gifts,
141 trades and donations;

142 (iii) The authority to enter into franchise
143 agreements;



144 (iv) The authority to require the necessary
145 relocation or rerouting of water lines, storm drain lines, sewer
146 lines, telecommunications lines, or electric power lines, and to
147 require the anchoring or other protection of any of these lines,
148 provided fair compensation is first paid to the owners or an
149 agreement is made with such owners regarding the payment of the
150 cost of such relocation, and to acquire easements or rights-of-way
151 for such relocation or rerouting, and to convey the same to the
152 owners of the property being relocated or rerouted in connection
153 with the purposes of this act;

154 (v) The authority to acquire, in the district's
155 name, by purchase on any terms and conditions and in any manner as
156 it may deem proper, including by eminent domain through action of
157 the Kemper County Board of Supervisors, property for public use,
158 or by gift, grant, or lease, real property or easements therein,
159 franchises and personal property necessary or convenient for its
160 corporate purposes; provided, however, that eminent domain shall
161 not be used to acquire any system operating under a certificate of
162 public convenience and necessity issued by the Mississippi Public
163 Service Commission or operated by a municipality;

164 (vi) The authority to establish and maintain
165 rates, fees, assessments and any other charges for services and
166 the use of facilities within the control of the district, and from
167 time to time, to adjust such rates, fees, assessments and other
168 charges to the end that the revenues therefrom will be sufficient



169 at all times to pay the expenses of operating and maintaining the
170 facilities and meeting all obligations under any contract, loan,
171 or bond;

172 (vii) The authority to acquire insurance for the
173 district's facilities and all property, real or personal; and

174 (c) Have the authority to issue revenue bonds to
175 finance the construction of * * * utility facilities as provided
176 in this act.

177 (2) The board may enter into a lease-purchase agreement for
178 the construction and ultimate acquisition of * * * utility
179 facilities. If the * * * facilities are subject to a
180 lease-purchase agreement with the board, * * * they shall be
181 considered * * * publicly owned * * * facilities and exempt from
182 the assessment and levy of ad valorem taxes.

183 (3) Except as otherwise provided in this act, all powers
184 with respect to * * * utility facilities granted to municipalities
185 of this state by Sections 21-27-11 through * * * 21-27-75,
186 Mississippi Code of 1972, including the issuance of revenue bonds,
187 are conferred upon and may be exercised within the district by the
188 board as if the system and financing thereof as provided in this
189 act were done pursuant to such sections.

190 (4) The district shall have the right to use any streets,
191 alleys, public ways and public places within its boundaries in
192 conjunction with the provision of utility services.



193 (5) The district shall have the authority to maintain office
194 space at such place or places within Kemper County as it may
195 determine.

196 (6) The district shall have the authority to make and
197 enforce, and from time to time amend and repeal, any bylaws,
198 ordinances, rules and regulations necessary for the management of
199 its business affairs and for the administration of its facilities.

200 (7) The district shall have the authority to adopt an
201 official seal and to alter the seal at its will and pleasure.

202 Section 7. For the purposes of Section 77-3-1, Mississippi
203 Code of 1972, * * * any utility facilities of the district shall
204 be deemed to be a municipal * * * utility system not subject to
205 the jurisdiction of the Mississippi Public Service Commission,
206 except as otherwise provided by Section 77-3-1, Mississippi Code
207 of 1972, and in this act.

208 Section 8. (1) Notwithstanding the provisions of Sections
209 77-3-21 and 77-3-23, Mississippi Code of 1972, the certificate of
210 public convenience and necessity held by any public agency,
211 district, public utility or other person authorized by law to
212 provide utility services may be canceled and its powers, duties
213 and responsibilities transferred to the Kemper County Utility
214 District in the manner provided by this section.

215 (2) Any entity described in subsection (1) of this section
216 desiring to have its certificate of public convenience and
217 necessity canceled and its powers, duties and responsibilities



218 transferred to the district shall make a determination to that
219 effect on its official minutes and in accordance with its bylaws
220 if a public entity, or by affidavit if not a public entity, and
221 transmit such determination to the district. The entity shall
222 also provide written approval from a lending institution for the
223 transfer of any assets or debts from the entity to the district.

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

229 (4) Upon completion of the requirements of subsections (2)
230 and (3) of this section and agreement by both parties to the
231 transfer, the holder of the certificate of public convenience and
232 necessity and the district shall jointly petition the Public
233 Service Commission to cancel the certificate of public convenience
234 and necessity. After review of the petition and any other
235 evidence as the Public Service Commission deems necessary, the
236 commission may issue an order canceling the certificate and
237 transferring to the district the powers, duties and
238 responsibilities granted by the certificate, including all assets
239 and debts of the transferor petitioner related to such
240 certificated services, real or personal, or both, if it finds
241 action is in the public interest.



242 Section 9. (1) If any system of a municipality, public
243 agency or person becomes subject to the jurisdiction of the
244 district, this act shall not impair, invalidate or abrogate any
245 liens, bonds or other certificates of indebtedness related to
246 utility facilities and systems incurred prior to becoming subject
247 to the jurisdiction of the district.

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

252 Section * * * 10. The amount of revenue bonds authorized to
253 be issued shall not exceed an aggregate of Ten Million Dollars
254 (\$10,000,000.00).

255 Section * * * 11. The board of commissioners shall have full
256 power and authority to issue all bonds of the district, but before
257 issuing any bonds, the commission shall adopt a resolution
258 declaring its intention so to do, stating the amount of the bonds
259 proposed to be issued and the date upon which the commission
260 proposes to direct the issuance of such bonds. Such resolution
261 shall be published once a week for at least three (3) consecutive
262 weeks in at least one (1) newspaper qualified under the provisions
263 of Section 13-3-31, Mississippi Code of 1972, in the county or
264 counties in which the district lies and having a general
265 circulation in the district which lies in such county or counties.
266 The first publication of such resolution shall be made not less



267 than twenty-one (21) days before the date fixed in the resolution
268 for the issuance of the bonds, and the last publication shall be
269 made not more than seven (7) days before such date. If ten
270 percent (10%) of the users of the district file a written protest
271 against the issuance of the bonds on or before the date specified
272 in the resolution, then an election on the question of the
273 issuance of the bonds shall be called and held in the manner to be
274 provided by the commission by rules and regulations promulgated
275 before the adoption of the resolution declaring the commission's
276 intention to issue the bonds.

277 Section * * * 12. Any revenue bonds issued under the
278 provisions of this act may be submitted to validation under the
279 provisions of Sections 31-13-1 through 31-13-11, Mississippi Code
280 of 1972.

281 Section 13. Any person aggrieved by any final decision or
282 action of the district may appeal to the Kemper County Board of
283 Supervisors within thirty (30) days of the final decision or
284 action. Any appeal to the Kemper County Board of Supervisors
285 shall be based upon the record before the authority. The Kemper
286 County Board of Supervisors may approve, modify or deny the
287 decision or action of the district and shall issue a written order
288 setting forth its final decision. Any person aggrieved by any
289 final decision or action of the Kemper County Board of Supervisors
290 may appeal in accordance with Section 11-51-75, Mississippi Code
291 of 1972.



292 Section 14. In its sole discretion, at any time and for any
293 reason, the Kemper County Board of Supervisors may, with thirty
294 (30) days of advance notice and by resolution adopted with
295 supermajority vote, dissolve the Board of Commissioners of the
296 Kemper County Utility District and assume full operational control
297 of the district. For the purposes of this section, "supermajority
298 vote" shall mean four (4) of the (5) county supervisors.

299 Section * * * 15. If any provision of this act is held to be
300 invalid by any court of competent jurisdiction, the remainder of
301 this act shall not be affected thereby.

302 **SECTION 3.** This act shall take effect and be in force from
303 and after its passage.

