

## **Senate Amendments to House Bill No. 538**

**TO THE CLERK OF THE HOUSE:**

**THIS IS TO INFORM YOU THAT THE SENATE HAS ADOPTED THE AMENDMENTS SET OUT BELOW:**

### **AMENDMENT NO. 1**

**Amend by striking all after the enacting clause and inserting in lieu thereof the following:**

13           **SECTION 1.** Section 51-15-118, Mississippi Code of 1972, as  
14 amended by Senate Bill No. 2526, 2023 Regular Session, is amended  
15 as follows:  
16           51-15-118. The board of supervisors of any county that is  
17 included in the Pat Harrison Waterway District, or the governing  
18 authorities of any municipality not located in a member county but  
19 that joined the district by petition, may elect to withdraw such  
20 county or municipality from the district. The withdrawing county  
21 or municipality shall be responsible for paying its portion of any  
22 district bonds, contractual obligations, and any other  
23 indebtedness and liabilities of the district that are outstanding  
24 on the date of such county's or municipality's withdrawal from the  
25 district. The withdrawing county's or municipality's portion of  
26 such liabilities, obligations and indebtedness shall be determined  
27 through an independent audit conducted by a certified public  
28 accountant. The board of supervisors of the withdrawing county,  
29 or the governing authorities of the withdrawing municipality,

30 shall provide the sum that is required by this section either by  
31 appropriation from any available funds of the county or by levy.  
32 Such board of supervisors or municipal governing authorities may  
33 borrow funds as needed to satisfy the withdrawing county's or  
34 municipality's portion of the liabilities, obligations and  
35 indebtedness of the district as required herein. No withdrawal  
36 shall become effective until the close of the fiscal year in which  
37 the county has satisfied its obligations under this section.

38       **SECTION 2.** Section 51-15-119, Mississippi Code of 1972, as  
39 amended by Senate Bill No. 2526, 2023 Regular Session, is amended  
40 as follows:

41       51-15-119. (1) The Pat Harrison Waterway District through  
42 its board of directors is hereby empowered:

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

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

74           (c) To acquire and develop any other available water  
75 necessary or useful to the project and to construct, acquire, and  
76 develop all facilities within the project area deemed necessary or  
77 useful with respect thereto.

78           (d) To forest and reforest and to aid in the foresting  
79 and reforesting of the project area, and to prevent and aid in the  
80 prevention of soil erosion and flood within the area; to control,

81 store and preserve within the boundaries of the project area the  
82 waters of any streams in the area, for irrigation of lands and for  
83 prevention of water pollution.

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

105 The amount and character of interest in land, other property  
106 and easements to be acquired shall be determined by the board of

107 directors, and their determination shall be conclusive and shall  
108 not be subject to attack in the absence of manifold abuse of  
109 discretion or fraud on the part of such board in making this  
110 determination. However:

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

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

124 (iii) In drilling and developing, these persons  
125 are hereby vested with a right to have mineral interests  
126 integrated and their lands developed in the drilling unit or units  
127 that the State Oil and Gas Board shall establish after due  
128 consideration of the rights of all owners to be included in the  
129 drilling unit.

130 Moreover, when any site or plot of land is to be rented,  
131 leased or sold to any person, firm or corporation for the purpose  
132 of operating recreational facilities thereon for profit, the board

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

Any bona fide, resident householder actually living or maintaining a residence on land taken by the district by condemnation shall have the right to repurchase his former land from the board of directors for a price not exceeding the price paid for his land, plus any permanent improvements and plus the cost of condemnation.

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

175           (g) To overflow and inundate any public lands and  
176 public property, including sixteenth section lands and in lieu  
177 lands, within the project area.

178           (h) To construct, extend, improve, maintain and  
179 reconstruct, to cause to be constructed, extended, improved,  
180 maintained and reconstructed, and to use and operate all  
181 facilities of any kind within the project area necessary or  
182 convenient to the project and to the exercise of powers, rights,  
183 privileges and functions.

- 184           (i) To sue and be sued in its corporate name.
- 185           (j) To adopt, use and alter a corporate seal.
- 186           (k) To make bylaws for the management and regulation of  
187 its affairs.
- 188           (l) To employ engineers, attorneys, who may or may not  
189 be a director, and all necessary agents and employees to properly  
190 finance, construct, operate and maintain the projects and the  
191 plants, and to pay reasonable compensation for these services; for  
192 all services in connection with the issuance of bonds as provided  
193 in this article, the attorney's fee shall not exceed one percent  
194 (1%) of the principal amount of these bonds. For any other  
195 services, only reasonable compensation shall be paid for those  
196 services. The board shall have the right to employ a general  
197 manager or executive director, who shall, at the discretion of the  
198 board, have the power to employ and discharge employees. Without  
199 limiting the generality of the foregoing, it may employ fiscal  
200 agents or advisors in connection with its financing program and in  
201 connection with the issuance of its bonds.
- 202           (m) To make contracts and to execute instruments  
203 necessary or convenient to the exercise of the powers, rights,  
204 privileges and functions conferred upon it by this article.
- 205           (n) To make or cause to be made surveys and engineering  
206 investigations relating to the project, or related projects, for  
207 the information of the district to facilitate the accomplishment  
208 of the purposes for which it is created.

209           (o) To apply for and accept grants from the United  
210 States of America or from any corporation or agency created or  
211 designated by the United States of America, and to ratify and  
212 accept applications heretofore or hereafter made by voluntary  
213 associations to these agencies for grants to construct, maintain  
214 or operate any project or projects which hereafter may be  
215 undertaken or contemplated by the district.

216           (p) To do all other acts or things necessary,  
217 requisite, or convenient to the exercising of the powers, rights,  
218 privileges or functions conferred upon it by this article or any  
219 other law.

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

222           (r) To enter into contracts with municipalities,  
223 corporations, districts, public agencies, political subdivisions  
224 of any kind, and others for any services, facilities or  
225 commodities that the project may provide. The district is also  
226 authorized to contract with any municipality, corporation or  
227 public agency for the rental, leasing, purchase or operation of  
228 the water production, water filtration or purification, water  
229 supply and distributing facilities of the municipality,  
230 corporation or public agency upon consideration as the district  
231 and entity may agree. Any contract may be upon any terms and for  
232 any time as the parties may agree, and it may provide that it  
233 shall continue in effect until bonds specified therein and  
234 refunding bonds issued in lieu of these bonds and all obligations

are paid. Any contract with any political subdivision shall be binding upon the political subdivisions according to its terms, and the municipalities or other political subdivisions shall have the power to enter into these contracts as in the discretion of the governing authorities thereof would be to the best interest of the people of the municipality or other political subdivisions. These contracts may include within the discretion of the governing authorities a pledge of the full faith and credit of the political subdivisions for the performance thereof.

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

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

(u) Subject to the provisions of this article, from time to time to lease, sell or otherwise lawfully dispose of property of any kind, real, personal or mixed, or any interest therein within the project area or acquired outside the project area as authorized in this article, for the purpose of furthering the business of the district.

(v) When, in the opinion of the board of directors as shown by resolution duly passed, it shall not be necessary to the

261 carrying on of the business of the district that the district own  
262 any lands acquired, the board shall advertise the lands for sale  
263 to the highest and best bidder for cash, and shall receive and  
264 publicly open the bids thereon. The board shall, by resolution,  
265 determine the highest and best bid submitted for the land and  
266 shall thereupon notify the former owner, his/her heirs or  
267 devisees, by registered mail of the land to be sold and the  
268 highest and best bid received therefor, and the former owner, or  
269 his/her heirs or devisees, shall have the exclusive right at  
270 his/her or their option for a period of thirty (30) days in which  
271 to meet such highest and best bid and to purchase such property.

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

275 (x) To acquire by purchase, lease, gift or in any other  
276 manner (otherwise than by condemnation) and to maintain, use and  
277 operate all property of any kind, real, personal or mixed, or any  
278 interest therein within the project area, within or without the  
279 boundaries of the district, necessary for the project and  
280 convenient to the exercise of the powers, rights, privileges and  
281 functions conferred upon the district by this article.

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

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

294           (aa) To contract with persons, who are certified  
295 according to the minimum standards established by the Board on Law  
296 Enforcement Officer Standards and Training under Section 45-6-1 et  
297 seq., to serve as peace officers with the power to make arrests  
298 for violations of regulations of the district. Such officers are  
299 authorized to carry weapons and to enforce the laws of the state  
300 within the confines of district parks and property. All persons  
301 with which the district has contracted under this paragraph (aa)  
302 shall be independent contractors and shall not be considered as  
303 employees under Chapter 46 \* \* \*, Title 11, Mississippi Code of  
304 1972.

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

313 Fisheries and Parks; and (iii) to receive and expend any funds  
314 made available to the district from the Department of Wildlife,  
315 Fisheries and Parks for the construction of the lake and related  
316 structures and facilities.

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

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

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

**Further, amend by striking the title in its entirety and  
inserting in lieu thereof the following:**

1 AN ACT TO AMEND SECTION 51-15-118, MISSISSIPPI CODE OF 1972,  
2 AS AMENDED BY SENATE BILL NO. 2526, 2023 REGULAR SESSION, TO  
3 PROVIDE THAT FOR ANY PARTICIPATING COUNTY IN THE PAT HARRISON  
4 WATERWAY DISTRICT THAT IS WITHDRAWING FROM THE DISTRICT, SUCH  
5 WITHDRAWAL SHALL NOT BECOME EFFECTIVE UNTIL THE CLOSE OF THE  
6 FISCAL YEAR IN WHICH THE COUNTY HAS SATISFIED CERTAIN OBLIGATIONS  
7 WITH THE DISTRICT; TO AMEND SECTION 51-15-119, MISSISSIPPI CODE OF  
8 1972, AS AMENDED BY SENATE BILL NO. 2526, 2023 REGULAR SESSION, TO

9     REQUIRE THE BOARD OF DIRECTORS OF THE DISTRICT TO PROVIDE TO THE  
10    CHAIRMEN OF THE HOUSE AND SENATE APPROPRIATIONS COMMITTEES CERTAIN  
11    ANNUAL PLANS CONCERNING THE DISTRICT; AND FOR RELATED PURPOSES.

SS36\HB538A.1J

Eugene S. Clarke  
Secretary of the Senate