

By: Representative Eaton

To: County Affairs; Ways and Means

HOUSE BILL NO. 1260
(As Sent to Governor)

1 AN ACT TO CREATE A NEW CODE SECTION THAT AUTHORIZES THE
2 TRANSFER OF POWERS, DUTIES AND RESPONSIBILITIES FROM CERTAIN
3 DISSOLVED DRAINAGE DISTRICTS TO THE COUNTY SOIL AND WATER
4 CONSERVATION DISTRICTS; AND FOR RELATED PURPOSES.

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

6 SECTION 1. The duties, powers and responsibilities of a
7 drainage district with water impoundment structures constructed
8 with financing from the United States under Public Law 534 or
9 Public Law 566, 83rd Congress of the United States, or both, may
10 be transferred to the county soil and water conservation district
11 if it becomes apparent that such drainage district should be
12 dissolved, but future oversight, maintenance and operation are
13 required for the existing structures.

14 SECTION 2. (1) A drainage district may be dissolved and its
15 powers, duties and responsibilities transferred to the county soil
16 and water conservation district by:

17 (a) The commissioners of the drainage district
18 determining and spreading on the district's minutes that it is in
19 the best interest of the residents and landowners of the drainage
20 district that the district be dissolved and its powers, duties and
21 responsibilities be transferred to the county soil and water
22 conservation district. In any drainage district in which there
23 are not any active drainage district commissioners, or in which
24 the drainage district has ceased to function, the county soil and
25 water conservation district commissioners and the county board of
26 supervisors may begin the dissolution and transfer. If the
27 dissolution of the drainage district and transfer of powers occurs

28 without a resolution from the drainage district commissioners, the
29 chancery court, in its proceedings under subsection (1)(e), must
30 determine and state that there is not an active drainage district
31 or there are not any drainage district commissioners, or both.

32 (b) The commissioners of the county soil and water
33 conservation district determining, and spreading on the district's
34 minutes, that it is in the best interest of the residents and
35 landowners of the drainage district that the drainage district be
36 dissolved and its powers, duties and responsibilities be
37 transferred to the county soil and water conservation district.
38 Then, the county soil and water conservation district must decide
39 if it is willing to accept those powers, duties and
40 responsibilities.

41 (c) The county board of supervisors agreeing, and
42 spreading on the county's minutes, that the drainage district
43 should be dissolved and its powers, duties and responsibilities be
44 transferred to the county soil and water conservation district.
45 If the county supervisors agree to transfer the drainage district
46 to the county soil and water conservation district, they must
47 register their support by one (1) of the following methods of
48 funding the operation and maintenance of the existing water
49 impoundment structures:

50 (i) Continuation of existing ad valorem tax
51 assessments on benefited or affected acres with the ad valorem
52 taxes being used by the county soil and water conservation
53 district solely for the operation and maintenance of existing
54 water impoundment structures transferred from the drainage
55 district.

56 (ii) If there has not been an ad valorem tax
57 assessment or if the assessment has expired, the establishment of
58 ad valorem tax assessments on benefited or affected acres and
59 collection of the ad valorem taxes solely for the operation and
60 maintenance of the existing water impoundment structures

61 transferred from the drainage district. The ad valorem assessment
62 and collection of taxes shall comply with the procedures
63 authorized in Sections 51-29-45 through 51-29-57.

64 (iii) If there has not been an ad valorem tax
65 assessment or if it has expired, the county board of supervisors
66 may agree to provide funds, through county appropriation, to the
67 county soil and water conservation district for the operation and
68 maintenance of the transferred water impoundment structures.

69 (d) Upon completion of the requirements of subsection
70 (1)(a) through (c), the commissioners of the drainage district or
71 the commissioners of the county soil and water conservation
72 district, or both, shall petition the chancery court of the county
73 in which the drainage district was originally established for the
74 dissolution of the drainage district and the transference of its
75 powers, duties and responsibilities to the soil and water
76 conservation district. The petition must be accompanied by copies
77 of the minutes reflecting the actions of the drainage district,
78 the soil and water conservation district and the county board of
79 supervisors. After the petition is filed, it shall be the duty of
80 the clerk of the court to give notice of the filing by publishing
81 the notice in a newspaper published in the county for three (3)
82 consecutive weeks or by publishing the notice in a newspaper
83 published in the counties in which the lands of the drainage
84 district lie. The notice shall be addressed to all persons
85 interested in the drainage district and shall require them to
86 appear before the chancery court at a place within the district of
87 the chancery court on a day certain but not earlier than twenty
88 (20) days or more than sixty (60) days after the date of the first
89 publication of the notice, and show cause, if any, of why the
90 petition should not be granted.

91 (e) On the date set by the court, the chancellor shall
92 review the petition, minutes of the respective districts and board

93 of supervisors, and any other evidence or testimony the court
94 finds necessary, and if the court determines:

95 (i) Subsection (1)(a) through (c) of this section
96 has been complied with; and

97 (ii) It is in the best interest of the landowners
98 and residents of the drainage district to dissolve the drainage
99 district and transfer the drainage district's powers, duties and
100 responsibilities to the county soil and water conservation
101 district, the court shall enter its order:

102 1. Dissolving the drainage district.

103 2. Transferring all the powers, duties and
104 responsibilities of the drainage district to the county soil and
105 water conservation district.

106 3. Provide funding for the future operation
107 and maintenance of the existing water impoundment structures by
108 either:

109 a. Transferring existing authority to
110 assess benefited or affected acres for ad valorem taxation;

111 b. Authorizing the county soil and water
112 conservation district to assess ad valorem taxes on benefited or
113 affected acres in the manner authorized for drainage districts in
114 Sections 51-29-45 through 51-29-57; or

115 c. Recognizing that the county board of
116 supervisors will determine and provide funding amounts for the
117 operation and maintenance of the water impoundment structures by
118 the county soil and water conservation district.

119 4. Transferring all assets of the drainage
120 district, real or personal, or both, and any other assets,
121 wherever they are situated, to the county soil and water
122 conservation district.

123 (2) If a drainage district's boundaries cross county lines:

124 (a) Subsection (1)(b) and (c) must be completed by the
125 county soil and water conservation district and the county board

126 of supervisors for each county in which the drainage district has
127 existing water impoundment structures constructed with financing
128 from the United States under Public Law 534 or Public Law 566,
129 83rd Congress of the United States; and

130 (b) The chancery court's division of powers, duties and
131 responsibilities, together with the funding responsibilities for
132 operation and maintenance of existing structures, shall be in
133 accordance with the agreement of all county soil and water
134 conservation districts and county board of supervisors within
135 whose boundaries the drainage district's structures lie.

136 SECTION 3. Sections 1 and 2 of this act shall be codified in
137 Title 51, Chapter 33 of the Mississippi Code of 1972.

138 SECTION 4. This act shall take effect and be in force from
139 and after July 1, 2001.