

*****Adopted*****

AMENDMENT No. 1 PROPOSED TO

House Bill NO. 1029

By Senator(s) Committee

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

7 SECTION 1. Section 51-11-53, Mississippi Code of 1972, is
8 brought forward as follows:

9 51-11-53. For purposes of Sections 51-11-53 through
10 51-11-85, the following words shall have the meanings ascribed in
11 this section, unless the context clearly indicates otherwise:

12 (a) "District" means any flood control district created
13 under Sections 51-11-53 through 51-11-85.

14 (b) "Project" means a general plan for and purposes of
15 the flood and drainage control improvements.

16 (c) "Project area" means the physical location of any
17 levees, channels, drains, or related facilities, the area which is
18 necessary to be included in the district, and the area of the
19 district as shown on the maps or plats provided under Section
20 51-11-55.

21 (d) "Related facilities" mean any facilities which are
22 correlated with or used in connection with the project.

23 SECTION 2. Section 51-11-57, Mississippi Code of 1972, is

24 brought forward as follows:

25 51-11-57. (1) All powers of a flood control district shall
26 be exercised by a board of directors, to be composed of the
27 following:

28 (a) If the flood control district is comprised of lands
29 lying partly in a municipality and partly outside the limits of a
30 municipality but wholly in one (1) county, the governing authority
31 of the municipality shall appoint two (2) directors, the board of
32 supervisors of the county in which the municipality lies shall
33 appoint two (2) directors and the board of directors of the Pearl
34 River Basin Development District shall appoint one (1) director.

35 (b) If the flood control district is comprised of lands
36 lying, in whole or in part, in one or more municipalities which
37 are in existence at the time of the creation of that district, and
38 in one or more counties and not falling within the description of
39 (a) of this subsection, the governing authority of each

40 municipality shall appoint two (2) directors, the board of
41 supervisors of each county in which part of the lands of the flood
42 control district lie shall appoint two (2) directors and the board
43 of directors of the Pearl River Basin Development District shall
44 appoint one (1) director. If new municipalities are incorporated
45 within the flood control district after the organization of that
46 district, the governing authority of each new municipality shall
47 appoint two (2) directors of the flood control district.

48 Each director appointed under this section, except the director
49 appointed by the board of directors of the Pearl River Basin
50 Development District, shall be either a resident or property owner
51 in the district for which the director is appointed.

52 (2) Each director shall take and subscribe to the oath of
53 office required by Section 268 of the Constitution of the State of

54 Mississippi, before a chancery clerk, that the director will
55 faithfully discharge the duties of the office. The oath shall be
56 filed with the chancery clerk.

57 (3) Each director shall receive a per diem as provided under
58 Section 25-3-69 for attending each meeting of the board and for
59 each day actually spent in attending to the necessary business of
60 the flood control district and shall receive reimbursement for
61 actual expenses, including travel expenses, as provided in Section
62 25-3-41 upon express authorization of the board.

63 (4) The board of directors shall elect annually from its
64 number a president and a vice president of the flood control
65 district and any other officers deemed necessary. The president
66 shall be the chief executive officer of the flood control district
67 and the presiding officer of the board, and shall have the same
68 right to vote as any other director. The vice president shall
69 perform all the duties and exercise all powers conferred by this
70 article upon the president when the president is absent or fails
71 or declines to act, except the president's right to vote. The
72 board also shall appoint a secretary and a treasurer who may or
73 may not be members of the board, and it may combine these offices.

74 The treasurer shall give bond in the sum of not less than Fifty
75 Thousand Dollars (\$50,000.00), as set by the board of directors,
76 and each director shall give bond in the sum of not less than Ten
77 Thousand Dollars (\$10,000.00). The premiums on the bonds shall be
78 an expense of the district. The condition of each bond shall be
79 that the treasurer or director will faithfully perform all duties
80 of office and account for all money which shall come into the
81 treasurer's or director's custody.

82 (5) The initial term of the members of the board of
83 directors of the flood control district shall be one (1) member

84 shall serve for one (1) year, one (1) member shall serve for two
85 (2) years, and one (1) member shall serve for three (3) years. At
86 the initial meeting of the board of directors, the members shall
87 determine by lot which of their members shall serve for only one
88 (1), two (2), and three (3) years. After the initial term, each
89 member shall hold office for a term of six (6) years or until a
90 successor is appointed and qualified.

91 SECTION 3. Section 51-11-59, Mississippi Code of 1972, is
92 brought forward as follows:

93 51-11-59. Each flood control district, through its board of
94 directors, may:

95 (a) Impound, divert, change, alter, or otherwise
96 control overflow water and the surface water of any river or its
97 tributaries within the project area within its district in
98 accordance with the approved plan at any place or places and in
99 any amount as approved by Permit Board, by the diversion of rivers
100 or their tributaries, by the construction of a dam or dams, a
101 levee or levees, a channel or channels, reservoir or reservoirs,
102 works, pumps, plants, and any other necessary or useful related
103 facilities contemplated or described as a part of the project
104 within the district. The district also may construct or otherwise
105 acquire within the project area all works, plants, or other
106 facilities necessary or useful to the project for carrying out
107 Sections 51-11-53 through 51-11-85.

108 (b) Cooperate with the United States of America in the
109 construction of flood and drainage control improvements, for the
110 protection of property, controlling floods, reclaiming overflow
111 lands, and preventing overflows in this state; and for the purpose
112 of operating and maintaining dams, reservoirs, channels, levees,
113 pumps, and other flood control works and improvements which may be

114 constructed by the United States of America or any department or
115 agency of the United States of America.

116 (c) Furnish, without cost to the United States of
117 America, all lands, easements, and rights-of-way necessary for the
118 construction of the project or any part thereof, if the project or
119 any part of the project is to be constructed by the United States
120 of America or any agency or department of the United States of
121 America; hold and save the United States free from damages due to
122 the construction; make, without cost to the United States, any
123 changes, alterations, or relocation of any public utilities,
124 roads, highways, bridges, buildings, or local betterment made
125 necessary by the work; provide assurances to the United States of
126 America that encroachment on the levees, improved channels, and
127 pond areas will not be permitted; maintain and operate the
128 improvements after completion thereof in accordance with
129 regulations prescribed by the United States of America or any
130 agency or department of the United States of America; contribute
131 in cash to the United States of America, or any agency or
132 department of the United States of America, any sums of money as
133 shall be required by the United States of America, or any agency
134 or department of the United States of America, as a condition for
135 the construction of any improvements by the United States or any
136 agency or department; and generally, without being limited by any
137 of the above, carry out and faithfully perform any obligations
138 required of the district as a condition to the construction of any
139 flood control work, project, or improvements by the United States
140 of America, or any agency or department, and to give assurances to
141 the United States of America that the district will so do.

142 (d) Construct, acquire, and develop all facilities
143 within the project area in accordance with the approved plan

144 deemed necessary or useful.

145 (e) Prevent or aid in the prevention of damage to
146 person or property from the waters of any river or any of its
147 tributaries.

148 (f) Acquire by purchase, lease, gift, or in any other
149 manner (otherwise than by condemnation) and to maintain, use, and
150 operate any and all property of any kind, real, personal, or
151 mixed, or any interest in property within the project area within
152 the district, necessary for the project and convenient to the
153 exercise of the powers, rights, privileges, and functions
154 conferred upon the district by Sections 51-11-53 through 51-11-85.

155 (g) Acquire by condemnation any and all property of any
156 kind, real, personal, or mixed, or any interest in property within
157 the project area within the district, necessary for the project
158 and the exercise of the powers, rights, privileges, and functions
159 conferred upon the district by Sections 51-11-53 through 51-11-85,
160 according to the procedure provided by law for the condemnation of
161 lands or other property taken for rights-of-way or other purposes
162 by railroads, telephone, or telegraph companies. For the purposes
163 of Sections 51-11-53 through 51-11-85, the right of eminent domain
164 of the flood control district shall be superior and dominant to
165 the right of eminent domain of railroad, telegraph, telephone,
166 gas, power, and other companies or corporations, and shall be
167 sufficient to enable the acquisition of county roads, state
168 highways, or other public property in the project area, and the
169 acquisition, or relocation, of the utility property in the project
170 area.

171 The amount and character of interest in land, other property,
172 and easements to be acquired shall be determined by the board of
173 directors. Their determination shall be conclusive and shall not

174 be subject to attack in the absence of manifold abuse of
175 discretion or fraud on the part of the board in making that
176 determination. However,

177 (i) In acquiring lands, either by negotiation or
178 condemnation, the district shall not acquire minerals or royalties
179 within the project area, sand and gravel being considered as
180 minerals within the meaning of this section; and

181 (ii) No person or persons owning the mining
182 rights, drilling rights, or the right to share in production shall
183 be prevented from exploring, developing, or producing sand,
184 gravel, oil, or gas with necessary rights-of-way for ingress,
185 egress, pipe lines, and other means of transporting those products
186 by reason of the inclusion of any lands or mineral interests
187 within the project area, whether below or above the water line,
188 but any activities shall be under reasonable regulations adopted
189 by the board of directors to adequately protect the project; and

190 (iii) In drilling and developing, those persons
191 are vested with a special right to have any mineral interest
192 integrated and their lands developed in a drilling unit or units
193 as the State Oil and Gas Board shall establish after due
194 consideration of the rights of all of the owners to be included in
195 the drilling unit.

196 (h) Require the necessary relocation of bridges, roads,
197 and highways, railroad, telephone, and telegraph lines and
198 properties, electric power lines, gas pipe lines and mains and
199 facilities in the project area, or to require the anchoring or
200 other protection of any of these, provided due compensation is
201 first paid the owners of the infrastructure, utilities or
202 facilities or agreement is had with the owners regarding the
203 payment of the cost of the relocation. The district may also

204 acquire easements or rights-of-way in or outside of the project
205 area for the relocation of any road, highway, railroad, telephone,
206 and telegraph lines and properties, electrical power lines, gas
207 pipe lines and mains and facilities, and convey the easements or
208 rights-of-way to the owners in connection with the relocation as a
209 part of the construction of the project.

210 (i) Overflow and inundate any public lands and public
211 property, including sixteenth section lands and in lieu lands,
212 within the project area.

213 (j) Construct, extend, improve, maintain, and
214 reconstruct, to cause to be constructed, extended, improved,
215 maintained, and reconstructed, and use and operate any facilities
216 within the project area necessary or convenient to the project and
217 to the exercise of the powers, rights, privileges, and functions.

218 (k) Sue and be sued in its corporate name.

219 (l) Adopt, use, and alter a corporate seal.

220 (m) Adopt bylaws for the management and regulation of
221 its affairs.

222 (n) Employ engineers, attorneys, fiscal agents,
223 advisors, and all necessary agents and employees to properly
224 finance, construct, operate, and maintain the project and the
225 facilities of the district and carry out Sections 51-11-53 through
226 51-11-85, and pay reasonable compensation for those services.

227 (o) Contract and execute instruments necessary or
228 convenient to the exercise of the powers, rights, privileges, and
229 functions conferred upon it by Sections 51-11-53 through 51-11-85.

230 (p) Conduct or cause to be conducted surveys and
231 engineering investigations relating to the project, or related
232 projects, for the information of the district to facilitate the
233 accomplishment of the purposes for which it is created.

234 (q) Apply for and accept grants from the United States
235 of America, or any corporation or agency created or designated by
236 the United States of America, and ratify and accept applications
237 made by voluntary associations to those agencies for grants to
238 construct, maintain, or operate any project or projects which may
239 be undertaken or contemplated by the district.

240 (r) Perform any other acts or things necessary or
241 convenient to the exercising of the powers, rights, privileges, or
242 functions conferred upon it by Sections 51-11-53 through 51-11-85
243 or any other law.

244 (s) Contract for the issuance of bonds as may be
245 necessary to insure the marketability of those bonds.

246 (t) Operate and maintain within the project area, with
247 the consent of the governing body of any municipality, town or
248 county located within the district, any works, plants, or
249 facilities of that municipality, town, or county deemed necessary
250 or convenient to the accomplishment of the purposes for which the
251 district is created.

252 (u) Subject to the provisions of Sections 51-11-53
253 through 51-11-85, from time to time to lease, sell, or otherwise
254 dispose of any property of any kind, real, personal, or mixed, or
255 any interest in property within the project area or acquired
256 outside the project area as authorized in this article, for the
257 purpose of furthering the business of the district.

258 (v) Make any changes in location of levees, channels,
259 drains, or related facilities, or other changes, alterations, or
260 modifications in the plan filed with the petition creating the
261 district, which may be necessary for the accomplishment of the
262 general purposes of the district.

263 SECTION 4. Section 51-11-67, Mississippi Code of 1972, is

264 brought forward as follows:

265 51-11-67. The elections shall be held, as practicable, in
266 the same manner as elections are held in county bond elections.
267 In conducting the elections, the flood control district shall be
268 divided into election districts in accordance with existing
269 election districts created under Section 23-5-9. There shall be
270 one (1) voting place in each election district and that voting
271 place shall be both within the election district and within the
272 flood control district. The election commissioners shall furnish
273 at each voting place a list of the qualified electors residing in
274 the flood control district who are also qualified electors in the
275 election district. In the election, all qualified electors
276 residing in the flood control district may vote. The ballots used
277 at the election shall have printed on the ballot a brief statement
278 of the amount and purpose of the proposed bond issue and the words
279 "FOR THE BOND ISSUE" and "AGAINST THE BOND ISSUE." Each voter
280 shall vote by placing a cross (X) opposite the voter's choice on
281 the proposition.

282 SECTION 5. Section 51-11-73, Mississippi Code of 1972, is
283 brought forward as follows:

284 51-11-73. To provide funds for the payment of the principal
285 of, interest on, and other charges in connection with bonds issued
286 under Sections 51-11-53 through 51-11-85, to provide funds for the
287 annual expenses of operations of the district, and to provide
288 funds for carrying out the purposes of Sections 51-11-53 through
289 51-11-85, the district may levy annually a special tax upon all
290 the taxable property within the flood control district on or
291 before the first Monday of September of each year. The board of
292 directors of the flood control district shall certify the levy to
293 the boards of supervisors of the various counties in the district.

294 The boards of supervisors of each county shall make the levy on
295 each tract of land or other property in the flood control district
296 according to the assessed valuation of that land or property. The
297 taxes shall be collected by the tax collectors of the respective
298 counties in the district, who shall deposit the collected taxes in
299 the depository selected by the board of directors of the district.

300 The tax collector shall receive a sum not greater than one-fifth
301 of one percent (1/5 of 1%) of the amount collected for services in
302 making the collection, and that fee shall be paid into the county
303 general fund. The board of directors of the flood control
304 district shall levy a tax sufficient to pay the bonds and the
305 interest on the bonds as the bonds and interest become due, to pay
306 for the annual expense of operation of the district, and to
307 provide funds for carrying out Sections 51-11-53 through 51-11-85.

308 SECTION 6. (1) From and after July 1, 2001, the board of
309 supervisors of any county that is included in the Pearl River
310 Basin Development District may elect to withdraw such county from
311 the district by notifying the district in writing of its intention
312 on or before March 15 of the fiscal year of the district preceding
313 the effective year of withdrawal from the district. The
314 withdrawing county shall be responsible for paying its portion of
315 any district bonds, contractual obligations, and any other
316 indebtedness and liabilities of the district that are outstanding
317 on the date of such county's withdrawal from the district, as well
318 as the withdrawing county's portion of budgeted expenditures of
319 the current fiscal year of the district. The withdrawing county's
320 portion of such liabilities, obligations and indebtedness shall be
321 determined through an independent audit conducted by a certified
322 public accountant selected by the district. The board of
323 supervisors of the withdrawing county shall provide the sum that

324 is required by this section either by appropriation from any
325 available funds of the county or by levy. Such board of
326 supervisors may borrow funds as needed to satisfy the withdrawing
327 county's portion of the liabilities, obligations and indebtedness
328 of the district as required herein.

329 (2) Upon withdrawal of any such county, the district, in its
330 sole discretion, may elect to continue to own and provide for the
331 operation of any facility located in such withdrawing county, or
332 it may elect to cease operation of the facility or sell the
333 facility as provided for in this chapter.

334 SECTION 7. This act shall take effect and be in force from
335 and after its passage.

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

1 AN ACT TO BRING FORWARD SECTIONS 51-11-53, 51-11-57,
2 51-11-59, 51-11-67 AND 51-11-73, MISSISSIPPI CODE OF 1972,
3 RELATING TO FLOOD CONTROL DISTRICTS; TO PROVIDE THE PROCEDURES
4 THAT SHALL BE USED BY ANY COUNTY SEEKING TO WITHDRAW FROM THE
5 PEARL RIVER BASIN DEVELOPMENT AUTHORITY; AND FOR RELATED PURPOSES.