

By: Representative Holland

To: Public Buildings,  
Grounds and Lands

HOUSE BILL NO. 1359

1 AN ACT TO AMEND SECTION 51-13-111, MISSISSIPPI CODE OF 1972,  
 2 TO AUTHORIZE THE BOARD OF DIRECTORS OF THE TOMBIGBEE RIVER VALLEY  
 3 WATER MANAGEMENT DISTRICT TO TRANSFER THE ELVIS PRESLEY PARK TO  
 4 THE MISSISSIPPI DEPARTMENT OF WILDLIFE, FISHERIES AND PARKS IN LEE  
 5 COUNTY, MISSISSIPPI; TO AUTHORIZE THE BOARD OF DIRECTORS OF THE  
 6 TOMBIGBEE RIVER VALLEY WATER MANAGEMENT DISTRICT TO PAY  
 7 \$200,000.00 TO THE MISSISSIPPI DEPARTMENT OF WILDLIFE, FISHERIES  
 8 AND PARKS AT THE TIME OF SUCH TRANSFER AND TO PROVIDE THAT SUCH  
 9 FUNDS WILL BE USED FOR THE PURPOSE OF CONSTRUCTING AN OFFICE  
 10 BUILDING ON THE ELVIS PRESLEY PARK FOR THE MISSISSIPPI DEPARTMENT  
 11 OF WILDLIFE, FISHERIES AND PARKS; AND FOR RELATED PURPOSES.

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

13 **SECTION 1.** Section 51-13-111, Mississippi Code of 1972, is  
 14 amended as follows:

15 51-13-111. The Tombigbee River Valley Water Management  
 16 District through its board of directors is hereby empowered:

17 (a) To develop, in conjunction with the United States  
 18 Army Corps of Engineers, United States Secretary of Agriculture,  
 19 or with the head of any other federal or state agency as may be  
 20 involved, plans for public works of improvement for the prevention  
 21 of floodwater damage, or the conservation, development,  
 22 navigation, utilization and disposal of water, including the  
 23 impoundment, diversion, flowage and distribution of waters for  
 24 beneficial use as defined in Chapter 3 of this title.

25 To enter into agreements with the United States of America,  
 26 as represented by the United States Army Corps of Engineers, to  
 27 meet the requirements of local cooperation for flood control and  
 28 navigation projects as set out in House Document No. 167, 84th  
 29 Congress, First Session, as authorized by Public Law 85-500, 85th  
 30 Congress, dated July 3, 1958, as amended, and House Document No.



31 486, 79th Congress, Second Session, as approved by Public Law 525,  
32 79th Congress, as amended.

33 (b) To impound overflow water and the surface water of  
34 the Tombigbee River or its tributaries within the project area,  
35 within or without the district, at the place or places and in the  
36 amount as may be approved by the Office of Land and Water  
37 Resources of the State of Mississippi, by the construction of a  
38 dam or dams, reservoir or reservoirs, work or works, plants and  
39 any other necessary or useful related facilities contemplated and  
40 described as a part of the project, within or without the  
41 district, to control, store and preserve these waters, and to use,  
42 distribute, and sell them, to construct or otherwise acquire  
43 within the project area all works, plants, or other facilities  
44 necessary or useful to the project for processing the water and  
45 transporting it to cities and other facilities for domestic,  
46 municipal, commercial, industrial, agricultural and manufacturing  
47 purposes, and is hereby given the power to control open channels  
48 for water delivery purposes and water transportation.

49 (c) To acquire and develop any other available water  
50 necessary or useful to the project and to construct, acquire and  
51 develop all facilities within the project area deemed necessary or  
52 useful with respect thereto, including terminals.

53 (d) To forest and reforest, and to aid in the foresting  
54 and reforesting of the project area, and to prevent and to aid in  
55 the prevention of soil erosion and flood within the area; to  
56 control, store, and preserve within the boundaries of the project  
57 area the waters of the Tombigbee River or any of its tributaries  
58 for irrigation of lands and for prevention of water pollution.

59 (e) To acquire by condemnation all property of any  
60 kind, real, personal, or mixed, or any interest therein, within or  
61 without the boundaries of the district, necessary for the projects  
62 and the exercise of the powers, rights, privileges and functions  
63 conferred upon the district by this article, according to the



64 procedure provided by law for the condemnation of lands or other  
65 property taken for rights-of-way or other purposes by railroads,  
66 telephone, or telegraph companies, and according to the provisions  
67 of Section 29-1-1. For the purposes of this article the right of  
68 eminent domain of the district shall be superior and dominant to  
69 the right of eminent domain of railroad, telegraph, telephone,  
70 gas, power and other companies or corporations and shall be  
71 sufficient to enable the acquisition of county roads, state  
72 highways, or other public property in the project area, and the  
73 acquisition or relocation of this property in the project area.  
74 The cost of right-of-way purchases, rerouting and elevating all  
75 other county-maintained roads affected by construction shall be  
76 borne by the water management district, and new construction shall  
77 be of equal quality as in roads existing as of May 1, 1962. The  
78 county in which the work is done may assist in these costs if the  
79 board of supervisors desires.

80 The amount and character of interest in land, other property,  
81 and easements to be acquired shall be determined by the board of  
82 directors, and their determination shall be conclusive and shall  
83 not be subject to attack in the absence of manifold abuse of  
84 discretion or fraud on the part of such board in making such  
85 determination. However,

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

90 (ii) No person or persons owning the drilling  
91 rights or the right to share in production shall be prevented from  
92 exploring, developing, or producing oil or gas with necessary  
93 rights-of-way for ingress and egress, pipelines, and other means  
94 of transporting these products by reason of the inclusion of the  
95 lands or mineral interests within the project area, whether below  
96 or above the waterline, but any activities shall be under



97 reasonable regulations by the board of directors that will  
98 adequately protect the project; and

99 (iii) In drilling and developing, these persons  
100 are hereby vested with a special right to have mineral interests  
101 integrated and their lands developed in the drilling unit or units  
102 that the State Oil and Gas Board shall establish after due  
103 consideration of the rights of all owners to be included in the  
104 drilling unit.

105 Moreover, when any site or plot of land is to be sold to any  
106 person, firm, or corporation for the purpose of operating  
107 recreational facilities thereon for profit, the board shall, by  
108 resolution, specify the terms and conditions of the sale and shall  
109 advertise for public bids thereon. When these bids are received,  
110 they shall be publicly opened by the board, and the board shall  
111 thereupon determine the highest and best bid submitted and shall  
112 immediately notify the former owner of the site or plot of the  
113 amount, terms, and conditions of the highest and best bid. The  
114 former owner of the site or plot shall have the exclusive right at  
115 his option, for a period of thirty (30) days after written notice  
116 is received by the landowner of the determination of the highest  
117 and best bid by the board, to purchase the site or plot of land by  
118 meeting the highest and best bid and by complying with all terms  
119 and conditions of the sale as specified by the board. However,  
120 the board shall not sell to any former owner more land than was  
121 taken from the former owner for the construction of the project,  
122 or one-quarter (1/4) mile of shoreline, whichever shall be the  
123 lesser. If this option is not exercised by the former owner  
124 within a period of thirty (30) days, the board shall accept the  
125 highest and best bid submitted.

126 Any bona fide resident householder actually living or  
127 maintaining a residence on land taken by the district by  
128 condemnation shall have the right to repurchase his former land



129 from the board of directors for a price not exceeding the price  
130 paid for condemning his land, plus any permanent improvements.

131 In addition and notwithstanding any other provision in this  
132 section to the contrary, the board may lease or rent all or any  
133 portion of any property that it owns to any person, firm, or  
134 corporation for the purpose of operating recreational facilities  
135 for profit or not for profit or for any other public purpose  
136 provided the land is open for the use of the general public or is  
137 otherwise used for the public benefit and upon any other terms and  
138 conditions as the board may determine. The leasing or renting of  
139 all or any portion of any such land upon said conditions shall  
140 require a resolution duly adopted by the board and shall be exempt  
141 from any bid requirements in this section.

142 (f) To require the necessary relocation of roads and  
143 highways, railroad, telephone, and telegraph lines and properties,  
144 electric power lines, gas pipelines and mains and facilities in  
145 the project area, or to require the anchoring or other protection  
146 of any of these, provided due compensation is first paid the  
147 owners thereof or agreement is had with the owners regarding the  
148 payment of the cost of relocation. Further, the district is  
149 hereby authorized to acquire easements or rights-of-way in or  
150 outside of the project area for the relocation of roads, highways,  
151 railroad, telephone, and telegraph lines and properties, electric  
152 power lines, gas pipelines and mains and facilities, and to convey  
153 them to the owners thereof in connection with the relocation as a  
154 part of the construction of the project. However, the directors  
155 of the district shall not close any public access road to the  
156 project existing prior to the construction of the reservoir unless  
157 the board of supervisors of the county in which the road is  
158 located agrees thereto.

159 (g) To overflow and inundate any public lands and  
160 public property, including sixteenth section lands and in lieu  
161 lands, within the project area.



162           (h) To construct, extend, improve, maintain and  
163 reconstruct, to cause to be constructed, extended, improved,  
164 maintained and reconstructed, and to use and operate all  
165 facilities of any kind within the project area necessary or  
166 convenient to the project and to the exercise of powers, rights,  
167 privileges and functions.

168           (i) To sue and be sued in its corporate name.

169           (j) To adopt, use, and alter a corporate seal.

170           (k) To make bylaws for the management and regulation of  
171 its affairs.

172           (l) To employ engineers, attorneys, and all necessary  
173 agents and employees to properly finance, construct, operate, and  
174 maintain the project and the plants and to pay reasonable  
175 compensation for these services; for all services in connection  
176 with the issuance of bonds as provided in this article, the  
177 attorney's fee shall not exceed one-quarter of one percent (1/4 of  
178 1%) of the principal amount of these bonds. For any other  
179 services, only reasonable compensation shall be paid for these  
180 services. The board shall have the right to employ a general  
181 manager, who shall, at the discretion of the board, have the power  
182 to employ and discharge employees. Without limiting the  
183 generality of the foregoing, it may employ fiscal agents or  
184 advisors in connection with its financing program and in  
185 connection with the issuance of its bonds.

186           (m) To make contracts and to execute instruments  
187 necessary or convenient to the exercise of the powers, rights,  
188 privileges, and functions conferred upon it by this article.

189           (n) To make or cause to be made surveys and engineering  
190 investigations relating to the project, or related projects, for  
191 the information of the district to facilitate the accomplishment  
192 of the purposes for which it is created.

193           (o) To apply for and accept grants from the United  
194 States of America, or from any corporation or agency created or



195 designated by the United States of America, and to ratify and  
196 accept applications heretofore or hereafter made by voluntary  
197 associations to these agencies for grants to construct, maintain  
198 or operate any project or projects which hereafter may be  
199 undertaken or contemplated by the district.

200 (p) To do any other acts or things necessary,  
201 requisite, or convenient to the exercising of the powers, rights,  
202 privileges or functions conferred upon it by this article or any  
203 other law.

204 (q) To make contracts in the issuance of bonds that may  
205 be necessary to insure the marketability thereof.

206 (r) To enter into contracts with municipalities,  
207 corporations, districts, public agencies, political subdivisions  
208 of any kind, and others for any services, facilities or  
209 commodities that the project may provide. The district is also  
210 authorized to contract with any municipality, corporation, or  
211 public agency for the rental, leasing, purchase, or operation of  
212 the water production, water filtration or purification, water  
213 supply and distributing facilities of the municipality,  
214 corporation, or public agency upon consideration as the district  
215 and entity may agree. Any contract may be upon any terms and for  
216 any time as the parties may agree, and it may provide that it  
217 shall continue in effect until bonds specified therein, refunding  
218 bonds issued in lieu of these bonds, and all obligations are paid.  
219 Any contract with any political subdivision shall be binding upon  
220 these political subdivisions according to its terms, and the  
221 municipalities or other political subdivisions shall have the  
222 power to enter into these contracts as in the discretion of the  
223 governing authorities thereof would be to the best interest of the  
224 people of the municipality or other political subdivision. These  
225 contracts may include, within the discretion of the governing  
226 authorities, a pledge of the full faith and credit of the  
227 political subdivisions for the performance thereof.



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

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

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

243           (v) When, in the opinion of the board of directors as  
244 shown by resolution duly passed, it shall not be necessary to the  
245 carrying on of the business of the district that the district own  
246 any lands acquired, the board shall advertise these lands for sale  
247 to the highest and best bidder for cash and shall receive and  
248 publicly open the bids thereon. The board shall, by resolution,  
249 determine the highest and best bid submitted for the land and  
250 shall thereupon notify the former owner, his/her heirs or  
251 devisees, by registered mail of the land to be sold and the  
252 highest and best bid received therefor, and the former owner, or  
253 his/her heirs or devisees, shall have the exclusive right at  
254 his/her or their option for a period of thirty (30) days in which  
255 to meet such highest and best bid and to purchase the property.  
256 Provided further, that the board may transfer title to that  
257 certain property known as the Trace State Park in Pontotoc County  
258 to the Department of Environmental Quality; provided, however,  
259 that any of the property that is under current lease shall not be  
260 included in the transfer. Such transfer of title shall require a





261 resolution duly adopted by the board and by the Commission on  
262 Environmental Quality and shall be exempt from any bid  
263 requirements herein. In addition, the board may transfer title to  
264 that certain property known as the Elvis Presley Park in Lee  
265 County to Lee County, Mississippi, upon the terms and conditions  
266 as it may determine. The transfer of title shall require a  
267 resolution duly adopted by the board and shall be exempt from any  
268 bid requirement in this section. In addition, the board may  
269 transfer title to all or any portion of that certain property  
270 known as the Elvis Presley Park in Lee County to the Mississippi  
271 Department of Wildlife, Fisheries and Parks upon the terms and  
272 conditions as it may determine, including, but not limited to,  
273 authorizing the board to pay the sum of Two Hundred Thousand  
274 Dollars (\$200,000.00) to the Mississippi Department of Wildlife,  
275 Fisheries and Parks at the time of the transfer with such funds to  
276 be used by the Mississippi Department of Wildlife, Fisheries and  
277 Parks for the construction of an office building on the Elvis  
278 Presley Park for use by the Mississippi Department of Wildlife  
279 Fisheries and Parks. Such transfer of title and the payment of  
280 such sum of money shall require a resolution duly adopted by the  
281 board and by the Mississippi Department of Wildlife, Fisheries and  
282 Parks and shall be exempt from any bid requirement in this  
283 section.

284 (w) To prevent or aid in the prevention of damages to  
285 persons or property from the waters of the Tombigbee River or any  
286 of its tributaries.

287 (x) To acquire by purchase, lease, gift or in any other  
288 manner (otherwise than by condemnation) and to maintain, use, and  
289 operate all property of any kind, real, personal, or mixed, or any  
290 interest therein within the project area, within or without the  
291 boundaries of the district, necessary for the project and  
292 convenient to the exercise of the powers, rights, privileges and  
293 functions conferred upon the district by this article.



294           (y) In the purchase of or in the entering into of all  
295 lease purchase agreements for supplies, equipment, heavy  
296 equipment, and the like, the directors shall in all instances  
297 comply with the provisions of law pertaining to public purchases  
298 by public bids on these supplies and equipment.

299           (z) In addition to, or in conjunction with, any other  
300 powers and duties of the district arising under this chapter, to  
301 exercise those powers, duties and functions of a joint water  
302 management district set forth in Sections 51-8-27 through 51-8-55,  
303 except the power of eminent domain under Section 51-8-33. Before  
304 exercising those powers and duties, the district must comply with  
305 the provisions of Sections 51-8-63 and 51-8-65. In exercising the  
306 functions of a joint water management district, the district may  
307 apply to the Environmental Quality Permit Board for delegation of  
308 those powers and duties as provided by Section 51-3-15, and to  
309 apply to the Mississippi Commission on Environmental Quality for  
310 delegation of those powers and duties provided by Section 51-3-21.

311           **SECTION 2.** This act shall take effect and be in force from  
312 and after July 1, 2002.

