

By: Senator(s) Posey

To: Appropriations

SENATE BILL NO. 3043

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 DEPARTMENT OF WILDLIFE, FISHERIES AND PARKS; AND FOR RELATED  
5 PURPOSES.

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

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

9 51-13-111. The Tombigbee River Valley Water Management  
10 District through its board of directors is hereby empowered:

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

19 To enter into agreements with the United States of America,  
20 as represented by the United States Army Corps of Engineers, to  
21 meet the requirements of local cooperation for flood control and  
22 navigation projects as set out in House Document No. 167, 84th  
23 Congress, First Session, as authorized by Public Law 85-500, 85th  
24 Congress, dated July 3, 1958, as amended, and House Document No.  
25 486, 79th Congress, Second Session, as approved by Public Law 525,  
26 79th Congress, as amended.

27 (b) To impound overflow water and the surface water of  
28 the Tombigbee River or its tributaries within the project area,



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

43 (c) To acquire and develop any other available water  
44 necessary or useful to the project and to construct, acquire and  
45 develop all facilities within the project area deemed necessary or  
46 useful with respect thereto, including terminals.

47 (d) To forest and reforest, and to aid in the foresting  
48 and reforesting of the project area, and to prevent and to aid in  
49 the prevention of soil erosion and flood within the area; to  
50 control, store, and preserve within the boundaries of the project  
51 area the waters of the Tombigbee River or any of its tributaries  
52 for irrigation of lands and for prevention of water pollution.

53 (e) To acquire by condemnation all property of any  
54 kind, real, personal, or mixed, or any interest therein, within or  
55 without the boundaries of the district, necessary for the projects  
56 and the exercise of the powers, rights, privileges and functions  
57 conferred upon the district by this article, according to the  
58 procedure provided by law for the condemnation of lands or other  
59 property taken for rights-of-way or other purposes by railroads,  
60 telephone, or telegraph companies, and according to the provisions  
61 of Section 29-1-1. For the purposes of this article the right of



62 eminent domain of the district shall be superior and dominant to  
63 the right of eminent domain of railroad, telegraph, telephone,  
64 gas, power and other companies or corporations and shall be  
65 sufficient to enable the acquisition of county roads, state  
66 highways, or other public property in the project area, and the  
67 acquisition or relocation of this property in the project area.  
68 The cost of right-of-way purchases, rerouting and elevating all  
69 other county-maintained roads affected by construction shall be  
70 borne by the water management district, and new construction shall  
71 be of equal quality as in roads existing as of May 1, 1962. The  
72 county in which the work is done may assist in these costs if the  
73 board of supervisors desires.

74 The amount and character of interest in land, other property,  
75 and easements to be acquired shall be determined by the board of  
76 directors, and their determination shall be conclusive and shall  
77 not be subject to attack in the absence of manifold abuse of  
78 discretion or fraud on the part of such board in making such  
79 determination. However,

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

84 (ii) No person or persons owning the drilling  
85 rights or the right to share in production shall be prevented from  
86 exploring, developing, or producing oil or gas with necessary  
87 rights-of-way for ingress and egress, pipelines, and other means  
88 of transporting these products by reason of the inclusion of the  
89 lands or mineral interests within the project area, whether below  
90 or above the waterline, but any activities shall be under  
91 reasonable regulations by the board of directors that will  
92 adequately protect the project; and

93 (iii) In drilling and developing, these persons  
94 are hereby vested with a special right to have mineral interests



95 integrated and their lands developed in the drilling unit or units  
96 that the State Oil and Gas Board shall establish after due  
97 consideration of the rights of all owners to be included in the  
98 drilling unit.

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

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

125         In addition and notwithstanding any other provision in this  
126 section to the contrary, the board may lease or rent all or any  
127 portion of any property that it owns to any person, firm, or



128 corporation for the purpose of operating recreational facilities  
129 for profit or not for profit or for any other public purpose  
130 provided the land is open for the use of the general public or is  
131 otherwise used for the public benefit and upon any other terms and  
132 conditions as the board may determine. The leasing or renting of  
133 all or any portion of any such land upon said conditions shall  
134 require a resolution duly adopted by the board and shall be exempt  
135 from any bid requirements in this section.

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

153 (g) To overflow and inundate any public lands and  
154 public property, including sixteenth section lands and in lieu  
155 lands, within the project area.

156 (h) To construct, extend, improve, maintain and  
157 reconstruct, to cause to be constructed, extended, improved,  
158 maintained and reconstructed, and to use and operate all  
159 facilities of any kind within the project area necessary or



160 convenient to the project and to the exercise of powers, rights,  
161 privileges and functions.

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

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

164 (k) To make bylaws for the management and regulation of  
165 its affairs.

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

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

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

187 (o) To apply for and accept grants from the United  
188 States of America, or from any corporation or agency created or  
189 designated by the United States of America, and to ratify and  
190 accept applications heretofore or hereafter made by voluntary  
191 associations to these agencies for grants to construct, maintain



192 or operate any project or projects which hereafter may be  
193 undertaken or contemplated by the district.

194 (p) To do any other acts or things necessary,  
195 requisite, or convenient to the exercising of the powers, rights,  
196 privileges or functions conferred upon it by this article or any  
197 other law.

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

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

222 (s) To fix and collect charges and rates for any  
223 services, facilities or commodities furnished by it in connection



224 with the project, and to impose penalties for failure to pay these  
225 charges and rates when due.

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

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

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





257 requirements herein. In addition, the board may transfer title to  
258 that certain property known as the Elvis Presley Park in Lee  
259 County to the Department of Wildlife, Fisheries and Parks, upon  
260 the terms and conditions as it may determine. The transfer of  
261 title shall require a resolution duly adopted by the board and  
262 shall be exempt from any bid requirement in this section.

263 (w) To prevent or aid in the prevention of damages to  
264 persons or property from the waters of the Tombigbee River or any  
265 of its tributaries.

266 (x) To acquire by purchase, lease, gift or in any other  
267 manner (otherwise than by condemnation) and to maintain, use, and  
268 operate all property of any kind, real, personal, or mixed, or any  
269 interest therein within the project area, within or without the  
270 boundaries of the district, necessary for the project and  
271 convenient to the exercise of the powers, rights, privileges and  
272 functions conferred upon the district by this article.

273 (y) In the purchase of or in the entering into of all  
274 lease purchase agreements for supplies, equipment, heavy  
275 equipment, and the like, the directors shall in all instances  
276 comply with the provisions of law pertaining to public purchases  
277 by public bids on these supplies and equipment.

278 (z) In addition to, or in conjunction with, any other  
279 powers and duties of the district arising under this chapter, to  
280 exercise those powers, duties and functions of a joint water  
281 management district set forth in Sections 51-8-27 through 51-8-55,  
282 except the power of eminent domain under Section 51-8-33. Before  
283 exercising those powers and duties, the district must comply with  
284 the provisions of Sections 51-8-63 and 51-8-65. In exercising the  
285 functions of a joint water management district, the district may  
286 apply to the Environmental Quality Permit Board for delegation of  
287 those powers and duties as provided by Section 51-3-15, and to  
288 apply to the Mississippi Commission on Environmental Quality for  
289 delegation of those powers and duties provided by Section 51-3-21.



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

