

By: Senator(s) Gollott, Cuevas, Dawkins,
Hewes, Lee

To: Local and Private;
Finance

SENATE BILL NO. 2899

1 AN ACT TO PROVIDE A METHOD FOR THE MANAGEMENT OF STORMWATER
2 AND OTHER NONPOINT SOURCE POLLUTION; TO CREATE THE HARRISON COUNTY
3 STORMWATER MANAGEMENT DISTRICT AND TO DEFINE ITS DUTIES, POWERS
4 AND RESPONSIBILITIES; TO AUTHORIZE PUBLIC AGENCIES TO CONTRACT
5 WITH THE DISTRICT AND TO LEVY TAXES IN CONNECTION THEREWITH; TO
6 AUTHORIZE THE CONSOLIDATION OF THE HARRISON COUNTY WASTEWATER AND
7 SOLID WASTE MANAGEMENT DISTRICT AND THE HARRISON COUNTY STORMWATER
8 MANAGEMENT DISTRICT BY JOINT RESOLUTION OF SUCH DISTRICTS; TO
9 AUTHORIZE THE ISSUANCE OF BONDS AND NOTES; AND FOR RELATED
10 PURPOSES.

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

12 **SECTION 1.** This act shall be known, and may be cited as, the
13 "Harrison County Stormwater Management District Act."

14 **SECTION 2.** (1) It is hereby found and declared that
15 management and proper disposal of stormwater is an important
16 public concern; that pollution from inadequate or uneconomical
17 management and/or disposal of stormwater and other nonpoint source
18 pollution can adversely affect the economy and growth of the
19 state; and that the need for more adequate and economical
20 stormwater and nonpoint source pollution management is most acute
21 within certain counties.

22 (2) It is further found and declared that it is in the
23 public interest to foster and promote by all reasonable means the
24 abatement of stormwater and other nonpoint source pollution,
25 including pollution caused by septic tanks and thus to facilitate
26 the abatement of such pollution in the most economically
27 advantageous manner, including through the realization of
28 economies of scale; that the abatement of such pollution can best
29 be accomplished through the establishment of a management district
30 to provide for the planning and financing of adequate stormwater
31 and other nonpoint source pollution planning, management and



32 prevention, and the facilities therefor (on a qualitative and
33 quantitative basis) for the benefit of all public agencies and
34 other persons within Harrison County who desire by means of and
35 through such authority to obtain such facilities and services.

36 (3) It is further found and declared that to aid in
37 remedying these conditions, and to promote the most economical
38 development and operation of adequate stormwater and other
39 nonpoint source pollution planning, management and prevention, and
40 the facilities therefor, a public body corporate and politic of
41 the state shall be created with authority to cause and assist in
42 compliance with the standards established by law regarding such
43 facilities to plan, acquire, construct, finance, develop, own,
44 operate or maintain such facilities within Harrison County to
45 abate pollution from stormwater and other nonpoint sources; and to
46 apply and contract for and to accept grants-in-aid and other funds
47 from the federal government and the state government and their
48 agencies.

49 (4) It is further found and declared that it is necessary in
50 order to accomplish the objectives and purposes of the Harrison
51 County Stormwater Management District and the public agencies with
52 which it contracts, for such district and such public agencies, in
53 the implementation of the powers granted pursuant to this act, to
54 be authorized to engage in conduct which may be anticompetitive or
55 contrary to prohibition of federal or state antitrust laws; and
56 accordingly, it is the intent and policy of this act to displace
57 competition with respect to those powers authorized herein to be
58 exercised by such district and such public agencies.

59 (5) The Legislature further finds that the authority and
60 powers conferred under this act and the expenditure of public
61 money pursuant thereto constitute a valid public purpose; that the
62 creation and establishment of the Harrison County Stormwater
63 Management District is necessary and essential to the
64 accomplishment of the aforesaid purposes; that this act operates



65 on a subject in which the state at large is interested; and that
66 each of these matters are declared as a matter of express
67 legislative determination.

68 **SECTION 3.** Whenever used in this act, the following words
69 and terms shall have the following respective meanings unless a
70 different meaning clearly appears from the context:

71 (a) "Bonds" mean any bonds, interim certificates, notes
72 or other evidences of indebtedness of the district issued under
73 this act.

74 (b) "Collection and management facilities" means, such
75 pipes, collection facilities, trunklines, storm drains, retention
76 facilities, pretreatment and treatment facilities and other
77 related facilities which as the district shall deem necessary or
78 advisable for the abatement of pollution from stormwater and other
79 nonpoint source pollution.

80 (c) "County" means Harrison County.

81 (d) "Ditch" means any branch or lateral drain, tile
82 drain, levee, sluiceway, water course, floodgate, and any other
83 construction work found necessary for the reclamation of wet
84 overflow lands.

85 (e) "District" means the Harrison County Stormwater
86 Management District.

87 (f) "Facilities" mean any structure, building, ditch,
88 pipe, channel, improvement, land or other real or personal
89 property used or useful in stormwater management system under this
90 act.

91 (g) "Other nonpoint source pollution" means any runoff
92 which causes or contributes to cause pollution or degradation of
93 the receiving waters.

94 (h) "Person" means a natural person, public agency,
95 cooperative or private corporation, association, firm, partnership
96 or business trust or other entity of any nature whatsoever,



97 organized and existing under the laws of any state or of the
98 United States or any instrumentality thereof.

99 (i) "Project" means the collection, conveyance,
100 retention, detention and any other portion of a stormwater
101 management system and any property, real or personal, used as or
102 in connection with those purposes.

103 (j) "Project cost" means:

104 (i) All costs of site preparation and other
105 start-up costs;

106 (ii) All costs of construction;

107 (iii) All costs of real and personal property
108 required for the purposes of the project and facilities related
109 thereto, including land and any rights or undivided interest
110 therein, easements, franchises, fees, utility charges, permits,
111 approvals, licenses, and certificates and the securing of any
112 permits, approvals, licenses and certificates and all machinery
113 and equipment, including motor vehicles which are used for project
114 functions;

115 (iv) All costs of engineering, geotechnical,
116 architectural and legal services;

117 (v) All costs of plans and specifications and all
118 expenses necessary or incident to determining the feasibility or
119 practicability of the project;

120 (vi) Administrative expenses; and

121 (vii) Any other expenses as may be necessary or
122 incidental to the project financing.

123 (k) "Public agency" means any incorporated city or
124 town, county, political subdivision, governmental district or
125 unit, public corporation or governmental agency created under the
126 laws of the state, lying wholly or partially within the management
127 area.

128 (l) "Septic tank" means any private wastewater
129 treatment system, including septic tanks, privy vaults, cesspools,



130 surface and subsurface soil absorption systems, land dispersal
131 systems, and any other kind of private wastewater treatment system
132 the contents of which, if introduced into the waters of the State
133 of Mississippi or of the United States, would cause pollution or
134 degradation of such waters.

135 (m) "State" means the State of Mississippi.

136 (n) "Stormwater" means stormwater runoff, snowmelt
137 runoff and surface drainage as defined at 40 CFR 122.26(b)(13).

138 (o) "Stormwater management system" means a system which
139 is designed and constructed, implemented or operated to control
140 stormwater discharges to prevent or reduce flooding, over drainage
141 or water pollution or to otherwise affect the quantity of
142 discharges from the system. The stormwater management system
143 includes all pipes, channels, ditches, streams, wetlands,
144 detention or retention basins, ponds or other stormwater
145 conveyance or treatment facilities.

146 **SECTION 4.** (1) There is hereby created and established a
147 public body corporate and politic constituting a political
148 subdivision of the State of Mississippi to be known as the
149 "Harrison County Stormwater Management District." The district
150 shall be deemed to be acting in all respects for the benefit of
151 the people of the state in the performance of essential public
152 functions and the district shall be empowered in accordance with
153 the provisions of this act to promote the health, welfare and
154 prosperity of the general public.

155 (2) The district and the Harrison County Wastewater and
156 Solid Waste Management District created by Chapter 885, Local and
157 Private Laws of 1982, and by Chapter 862, Local and Private Laws
158 of 1986, are hereby authorized to be consolidated into a single
159 agency, to be known as the Harrison County Wastewater, Stormwater
160 and Solid Waste Management District, which shall be a continuance
161 of the corporate existence of those districts.



162 (3) As used in this section, the words "original districts"
163 refer to the districts which are authorized to be consolidated
164 pursuant to subsection (2) of this section before their
165 consolidation, and the word "district" refers to the single
166 district resulting from that consolidation.

167 Such consolidation may be effected by the unanimous
168 resolution of the original district and the filing of a copy of
169 such resolution with the Secretary of State, certified by the
170 secretaries of each of the original districts.

171 (4) In the event the original districts are consolidated in
172 to the district, the following provisions shall apply:

173 (a) All property, rights and powers of each of the
174 original districts are hereby vested in and shall be exercised by
175 the district, subject, however, to all pledges, covenants,
176 agreements and trusts made or created by the original districts,
177 respectively.

178 (b) All debts, liabilities, obligations, agreements and
179 covenants of the original districts are hereby imposed upon the
180 district. Any property of the original districts in which a
181 mortgage or security interest has been granted to any bondholders
182 or other creditors of either of the original districts shall
183 continue to be subject to that mortgage or security interest until
184 the mortgage or security interest is defeased or terminated in
185 accordance with its terms. All bondholders and other creditors of
186 the original districts and persons having claims against or
187 contracts with the original districts of any kind or character may
188 enforce those debts, claims or contracts against the district in
189 the same manner as they might have against the original districts,
190 respectively, and the rights and remedies of those bondholders,
191 creditors and persons having claims or contracts shall not be
192 limited or restricted in any manner by this act.

193 (c) In continuing the functions and carrying out the
194 contracts, obligations and duties of the original districts, the



195 district is hereby authorized to act in its own name or in the
196 name of either of the original districts as may be convenient or
197 advisable. Any references to either of the original districts in
198 any other law or regulation shall be deemed to refer to and apply
199 to the district.

200 (d) All regulations of the original districts shall
201 continue to be in effect as the regulations of the district until
202 amended, supplemented or rescinded by the district in accordance
203 with law.

204 (e) All employees of the original districts shall
205 become employees of the district. Nothing in this act shall
206 affect the civil service status, if any, of those employees or
207 their rights, privileges, obligations or status with respect to
208 any pension or retirement system.

209 (f) The district shall be governed by the consolidated
210 boards of directors of the original districts, which shall
211 continue as a single board governed by the provisions of this act.

212 (5) The district as hereby established shall be a public
213 body corporate and politic constituting a political subdivision of
214 the State of Mississippi. The district shall be deemed to be
215 acting in all respects for the benefit of the people of the state
216 in the performance of essential public functions and the district
217 shall be empowered in accordance with the provisions of this act
218 to promote the health, welfare and prosperity of the general
219 public.

220 **SECTION 5.** (1) All powers of the district shall be vested
221 in a board of directors. The mayor, acting in his executive
222 capacity of each incorporated city located within the management
223 area, shall serve as a director. In addition, the Board of
224 Supervisors of Harrison County, by majority vote thereof, shall
225 appoint a citizen of the county to serve, at the will and pleasure
226 of the board of supervisors, as a director of such board of
227 directors, and he shall enjoy equal powers with each and every



228 member thereof. Each director may designate a person to represent
229 him at meetings of the board, and each designee may lawfully vote
230 and otherwise act on behalf of the director who designates the
231 designee. Any designation shall be in writing, delivered to the
232 public agency for whom he constitutes the designee, and to the
233 district and shall continue in effect until revoked or amended by
234 writing and delivered to the public agency and the district. All
235 actions affecting rates, bonds or capital improvements shall be by
236 unanimous vote of all members of the board. A majority of the
237 members of the board shall constitute a quorum for lawful action
238 by the board.

239 (2) The board of directors may elect or appoint and
240 prescribe the duties of such officers as the board of directors
241 deem necessary or advisable, including an executive director and a
242 secretary. The executive director, who, at the discretion of the
243 board of directors, may also serve as secretary, shall be a person
244 of good moral character and shall be a professional engineer
245 registered in the State of Mississippi with a minimum of ten (10)
246 years recent practical experience in the management and
247 administration of public works operations which may include, but
248 is not limited to, supervision, public financing, regulatory codes
249 and related functions as minimum qualifications to administer the
250 programs and duties of the district. The executive director shall
251 administer, manage and direct the affairs and business of the
252 district, subject to the policies, control and direction of the
253 board of directors. The executive director shall give bond
254 executed by a surety company or companies authorized to so
255 business in this state in the sum of not less than Twenty-five
256 Thousand Dollars (\$25,000.00) payable to the district, conditioned
257 upon faithful performance of his duties and the proper accounting
258 for all funds which may come into his hands as executive director.
259 The secretary of the district shall keep a record of the
260 proceedings of the district and shall be custodian of all books,



261 documents and papers filed with the district, the minute book or
262 journal of the district and its official seal. The secretary
263 shall have authority to cause copies to be made of all minutes and
264 other records and documents of the district and to certify under
265 the seal of the district that such copies are true and accurate
266 copies, and all persons dealing with the district may rely upon
267 such certificates.

268 **SECTION 6.** The district shall have all of the rights and
269 powers necessary or convenient to carry out and effectuate the
270 purposes and provisions of this act, including, but without
271 limiting the generality of the foregoing, the right and power:

272 (a) To sue and be sued in its own name;

273 (b) To adopt an official seal and alter it at the
274 pleasure of the board;

275 (c) To maintain an office or offices at such place or
276 places within the management area as it may determine;

277 (d) To plan, develop, acquire, construct, reconstruct,
278 operate, own, manage, lease (as lessor or lessee), dispose of,
279 participate in, maintain, repair, extend or improve one or more
280 stormwater and other nonpoint source pollution collection and
281 management facilities, whether or not such facilities or are to be
282 owned by the district; to acquire, construct, improve or modify,
283 to operate or cause to be operated and maintained, either as owner
284 of all or of any part in common with others, a stormwater
285 management system within the counties or municipalities in the
286 district. The district may pay all or part of the costs of any
287 stormwater management system from any contribution by person,
288 firms, public agencies or corporations. The district may receive,
289 accept and use all funds, public or private and pay all cost of
290 development, implementation and maintenance as may be determined
291 as necessary for any project;



292 (e) To hold permits related to the management of
293 stormwater on its own behalf and as administrative agent for other
294 persons.

295 (f) To acquire, own, hold, use, lease (as lessor or
296 lessee), sell or otherwise dispose of, mortgage, pledge or grant a
297 security interest in any real or personal property, contract,
298 commodity or service or interest therein;

299 (g) To make and enforce, and from time to time, amend
300 and repeal, bylaws and rules and regulations for the management of
301 its business and affairs and for the use, maintenance and
302 operation of any of its collection and management facilities and
303 any other of its properties.

304 (h) To fix, charge, collect, maintain and revise rates,
305 fees and other charges for any services rendered by it to any
306 person;

307 (i) To apply and contract for and to accept any grants
308 or gifts or loans or appropriations of funds or property or
309 financial or other aid in any form from the United States or any
310 instrumentality thereof, or from the state or any instrumentality
311 thereof, or from any source, public or private, and to comply with
312 and make agreements with respect to the terms and conditions
313 thereof, subject to any agreements with bondholders;

314 (j) To borrow money and to issue bonds for any of its
315 corporate purposes, to provide for and secure the payment thereof,
316 and to provide for the rights of the holders thereof;

317 (k) To invest any money of the district, including
318 proceeds from the sale of any bonds, notwithstanding any law to
319 the contrary, but subject to any agreements with bondholders, on
320 such terms and in such manner as the district deems proper;

321 (l) To procure insurance against any loss in connection
322 with its property, other assets and business in such amounts and
323 from such insurers as it may deem necessary or desirable;



324 (m) To employ architects, engineers, attorneys,
325 financial advisors and such other consultants as it deems proper
326 and to fix and pay their compensation and to appoint and retain
327 such officers, agents and employees as it deems proper and to fix
328 and pay their compensation;

329 (n) To enter on any lands, waters or premises for the
330 purpose of making surveys, borings, sounding and examinations for
331 the purposes of the district;

332 (o) To do and perform any acts and things authorized by
333 this act under, through or by means of its officers, agents and
334 employees or by contracts with any person;

335 (p) To enter into any and all contracts of such nature
336 and duration, execute any and all instruments, and do and perform
337 any and all acts or things necessary, convenient or desirable for
338 the purposes of the district, or to carry out any power expressly
339 granted in this act including, without limiting the generality of
340 the foregoing, contracts with public agencies and other persons
341 and such public agencies and other person are hereby also
342 empowered to enter into such contracts with the districts which
343 may include provisions for exclusive dealing, fee payment
344 requirements, territorial division and other conduct or
345 arrangements which may have an anticompetitive effect;

346 (q) To adopt an issue a certificate of necessity to use
347 the power of eminent domain, including the right of immediate
348 possession, in the acquisition of real property. Upon the
349 adoption of such certificate of necessity, which shall state the
350 description of the real property needed to be acquired by eminent
351 domain, the authority shall transmit a copy of such certificate to
352 the Board of Supervisors of Harrison County, the governing
353 authorities of any public entity with the power of eminent domain
354 or to any other entity with the power of eminent domain. Such
355 board or entities may initiate proceedings under the provisions of
356 Title 11, Chapter 27, Mississippi Code of 1972. The eminent



357 domain proceedings thereby initiated shall be conducted according
358 to an governed by the provisions of Title 11, Chapter 27,
359 Mississippi Code of 1972.

360 **SECTION 7.** (1) The district shall have the power to adopt
361 and promulgate all reasonable rules and regulations regarding the
362 specifications and standards relating to the construction,
363 operation and maintenance of all stormwater and management
364 facilities located within any public agency which contracts with
365 district pursuant to this act so as to cause compliance with the
366 standards established by any federal or state agency, and so as to
367 effect the abatement of pollution occasioned by stormwater and
368 other nonpoint source pollution, including pollution from septic
369 tanks. The district shall also have the power to adopt and
370 promulgate all reasonable rules and regulations regarding the
371 specifications and standards relating to the construction,
372 operation and maintenance of all stormwater management facilities
373 either owned or operated by the district so as to cause compliance
374 with the above-described standards and to effect the abatement of
375 pollution.

376 (2) All such rules and regulations prescribed by the
377 district, after publication one (1) time in a newspaper of general
378 circulation in Harrison County, shall have the full force and
379 effect of law, and violation thereof shall be punishable by a fine
380 of not less than Fifty Dollars (\$50.00) and not more that Five
381 Hundred Dollars (\$500.00) per offense as may be prescribed in such
382 rules and regulations.

383 (3) In the event of a violation of any rule or regulation
384 adopted by the district to cause compliance with the standards
385 established by any federal or state agency, or to effect the
386 abatement of pollution, the district in addition to enforcement
387 authority continued herein, shall have authority to sue for and
388 obtain damages or other appropriate relief, including injunctive
389 relief.



390 (4) All such rules and regulations prescribed, and the
391 penalties fixed thereunder, by the authority of this act shall not
392 conflict with or suspend any rules, regulations or penalties
393 prescribed by general law. All fines and penalties levied and
394 collected under this act shall be remitted and accounted for in
395 accordance with the general law relating thereto.

396 **SECTION 8.** (1) Any public agency may, pursuant to a duly
397 adopted resolution of the governing body of such public agency,
398 enter into contracts with the district for the district to:

399 (a) Acquire, finance, lease (as lessor or lessee),
400 improve, extend, operate or maintain the collection and/or
401 management facilities of the public agency; or

402 (b) Acquire, finance, lease (as lessor or lessee),
403 improve, extend, operate or maintain stormwater collection and/or
404 management facilities to be owned by the authority or any other
405 person for the purpose of furnishing services to the public
406 agency; including in each instance such contracts whereby the
407 public agency is obligated to make payments in amounts which shall
408 be sufficient to enable the district to meet its expenses,
409 interest and principal payments (whether at maturity or upon
410 sinking fund redemption) for its bonds, reserves for debt service,
411 payment into the requirements of any rate covenant with respect to
412 debt service coverage contained in any resolution, trust indenture
413 or other security agreement relating to its bonds.

414 (2) If ten percent (10%) or fifteen hundred (1500),
415 whichever is less, of the qualified electors of any affected
416 public agency shall file a written protest against entering into
417 such contract with the district on or before the date and time
418 specified in such resolution, then an election on the question of
419 entering into such contract shall be called and held as set forth
420 in Section 12 of this act; however, in the event Harrison County
421 is an affected public agency, then the qualified electors of such
422 county shall mean the qualified electors of such county who reside



423 within the unincorporated areas within such county's geographical
424 limits. If no such protest is filed, then such contracts may be
425 issued without an election. Such contracts may also contain such
426 other terms and conditions as the authority and the public agency
427 may determine, including provisions whereby the public agency is
428 obligated to make payments under such contracts irrespective of
429 whether or not use or services are rendered or whether or not the
430 collection or disposal facilities contemplated by such contracts
431 are completed, operable or operating, and notwithstanding
432 suspension, interruption, interference, reduction or curtailment
433 of the use or services of such collection or disposal facilities.
434 Such contract may be for a term covering the life of the
435 facilities or for any other term or for an indefinite period, and
436 may be made with or without consideration.

437 (3) Contracts referred to in this section may provide that
438 the obligation of a public agency to make payments to the district
439 with respect to certain stormwater collection and/or management
440 facilities is several, or is joint and several, with the
441 obligations of other public agencies or other persons contracting
442 with the authority for the use or services of such treatment
443 facilities; and, where the public agency's obligation is joint and
444 several, then in the event any other public agency or other person
445 defaults in his obligation, the public agency may be required to
446 increase its payments to the authority by a proportional amount,
447 taking into consideration the remaining persons who are likewise
448 contracting with the authority and who are not in default.

449 (4) The obligations of a public agency arising under the
450 terms of any contract referred to in this section, whether or not
451 payable solely from revenues or solely from a pledge of ad valorem
452 taxes as provided in Section 9 hereof or any combination thereof,
453 shall not be construed as being included within the indebtedness
454 limitation of the public agency for purposes of any constitutional
455 or statutory limitation or provision. To the extent provided in



456 such contract and to the extent such obligations of the public
457 agency are payable solely from the revenues and other money
458 derived by the public agency from the operation of its stormwater
459 management facilities or any combination thereof which are the
460 subject of such contract, such obligations may be treated as
461 expenses of operating such facilities. Charges for the use of the
462 stormwater management system shall be reasonably calculated to
463 reflect use of the facilities made by properties in the district.

464 (5) Contracts referred to in this section may also provide
465 for payments in the form of contributions to defray the cost of
466 any purpose set forth in the contracts and as advances for any
467 collection and/or management facilities which are subject to such
468 contracts. A public agency may make such contributions or
469 advances from its general fund or surplus fund or from any money
470 legally available therefor.

471 (6) Contracts referred to in this section may, in order to
472 provide effective and prompt cooperation and coordination of any
473 matters among persons contracting with the district as provided in
474 this act, establish a coordinating committee of such persons.
475 Such committee shall consist of one (1) representative selected by
476 the district who shall be the coordinating committee's chairman,
477 and such other representatives from among the contracting parties
478 as shall be provided for by the terms of the contract. Such
479 coordinating committee shall have such rights and powers with
480 respect to the subject matter of the contract as shall be provided
481 for therein.

482 (7) Payments made or to be made to the district by a public
483 agency or other person pursuant to a contract for the use or
484 services of stormwater management facilities shall be determined
485 by the method specified in such contract and shall not be subject
486 to approval or review by the Public Service Commission.

487 **SECTION 9.** Any public agency, other than a county, having
488 taxing powers is hereby authorized to levy a special ad valorem



489 tax without limitation as to rate or amount upon all taxable
490 property within its geographical limits to pay all or a portion of
491 the payments to be made by that agency under contracts referred to
492 in Section 8 of this act and, if such contract of the public
493 agency so provides, then the contract shall constitute an
494 enforceable obligation against the taxing power of the public
495 agency to the extent provided therein. Harrison County is hereby
496 authorized to levy a special ad valorem tax without limitations as
497 to rate or amount upon all taxable property lying within any
498 unincorporated area within its geographical limits to pay all or a
499 portion of the payments to be made by that county under contracts
500 referred to in Section 8 of this act and, if such contract of the
501 county so provides, then the contract shall constitute an
502 enforceable obligation against the taxing power of the county to
503 the extent provided therein. The special ad valorem tax
504 authorized by this section shall not be reimbursable by the state
505 under the provisions otherwise made for reimbursements under the
506 homestead exemption laws. For the purpose of this act and under
507 the authority of this act, the Harrison County Stormwater Waste
508 Management District as an entity specifically is excluded from
509 being an authorized taxing unit under the definition of a public
510 agency.

511 **SECTION 10.** Whenever a public agency shall enter into a
512 contract referred to in Section 8 of this act, and the payments
513 thereunder are to be made either wholly or partly from the
514 revenues of the public agency's collection facilities or disposal
515 facilities or any combination thereof, the duty is hereby imposed
516 on the public agency to fix, establish and maintain, and from time
517 to time adjust, the rates charged by the public agency for the
518 service of such facilities to the end that the revenues from such
519 facilities, together with any ad valorem taxes levied for such
520 payments, will be sufficient at all times to pay:



521 (a) The expense of operating and maintaining such
522 facilities;

523 (b) All of the public agency's obligations to the
524 authority under such contract;

525 (c) All of the public agency's obligations under and in
526 connection with any outstanding bonds secured in whole or in part
527 by the revenues of such facilities.

528 **SECTION 11.** (1) The district shall have the power and is
529 hereby authorized, from time to time, to issue bonds in such
530 principal amounts as in the opinion of the district shall be
531 necessary to provide sufficient funds for achieving any of its
532 corporate purposes, including, without limiting the generality of
533 the foregoing, the financing of the acquisition, construction,
534 improvement or extension of stormwater management facilities, or
535 any combination thereof, whether or not such facilities are owned
536 by the district, the payment of interest on bonds of the district,
537 establishment of reserves to secure such bonds, expenses incident
538 to the issuance of such bonds and to the implementation of the
539 district's programs, and all other expenditures of the district
540 incident to or necessary or convenient to carry out its corporate
541 purposes and powers.

542 (2) The district may issue such types of bonds as it may
543 determine, subject only to any agreement with the holders of
544 particular bonds, including bonds as to which the principal and
545 interest are payable exclusively from all or a portion of the
546 revenues derived from one or more stormwater management
547 facilities, the contracts entered into by public agencies, and
548 other persons pursuant to Section 8 of this act, or any
549 combination of any of the foregoing, or which may be secured by a
550 pledge of any grant, subsidy or contribution from any public
551 agency or other person, or a pledge of any income or revenues,
552 funds or money of the authority from any other source whatsoever.



553 (3) Bonds shall be authorized by a resolution of the
554 district. Such bonds shall bear such date or dates, mature at
555 such time or times, bear interest at such rate or rates, be in
556 such denomination or denominations, be in such form, either
557 coupon, or registered, carry such conversions or registration
558 privileges, have such rank or priority, be executed in such manner
559 and by such officers, be payable from such sources in such medium
560 of payment at such place or places within or without the state
561 provided that one (1) such place shall be within the state, be
562 subject to such terms of redemption prior to maturity, all as may
563 be provided by resolution or resolutions of the district.

564 (4) Any bonds of the district may be sold at such price or
565 prices, at public or private sale, in such manner and at such
566 times as may be determined by the district to be in the public
567 interest, and the district may pay all expenses, premiums, fees
568 and commissions which it may deem necessary and advantageous in
569 connection with the issuance and sale thereof.

570 (5) It is the intention of the Legislature that any pledge
571 of earnings, revenues or other money made by the district shall be
572 valid and binding from the time the pledge is made; that the
573 earnings, revenues or other money so pledged and thereafter
574 received by the district shall immediately be subject to the lien
575 of such pledge, shall be valid and binding as against all parties
576 having claims of any kind in tort, contract or otherwise against
577 the district irrespective of whether such parties have notice
578 thereof. Neither the resolution nor any other instrument by which
579 a pledge is created need be recorded.

580 (6) Neither the commissioners of the district nor any person
581 executing the bonds shall be personally liable on the bonds or be
582 subject to any personal liability or accountability by reason of
583 the issuance thereof.

584 (7) Whenever any bonds shall have been signed by the
585 officers designated by resolution of the district to sign the



586 bonds who were in office at the time of such signing but who may
587 have ceased to be such officers prior to the sale and delivery of
588 such bonds, or who may not have been in office on the date such
589 bonds may bear, the manual or facsimile signatures of such
590 officers upon such bonds and the coupons appertaining thereto,
591 shall nevertheless be valid and sufficient for all purposes and
592 have the same effect as if the person so officially executing such
593 bonds had remained in office until the delivery of the same to the
594 purchaser or had been in office on the date such bonds may bear.
595 Before issuing bonds (other than interim certificates, notes,
596 refunding bonds as provided in Section 12 of this act or other
597 evidences of indebtedness of the district) hereunder, the board of
598 directors of the district shall adopt a resolution declaring its
599 intention to issue such bonds and stating the principal amount of
600 the bonds proposed to be issued and the date and time upon which
601 the board of directors proposes to direct the issuance of such
602 bonds. Such resolution shall be published once a week for at
603 least three (3) consecutive weeks in at least one (1) newspaper
604 having a general circulation within the geographical limits of all
605 of the public agencies (a) which have been contracted with the
606 district under the provisions of this act, (b) whose contracts
607 relate to the bonds proposed to be issued, and (c) which are
608 authorized by a law other than this act to hold elections. Each
609 public agency which meets all of the criteria set forth in (a),
610 (b) and (c) foregoing is hereinafter in this section referred to
611 as an "affected public agency" and, together with other such
612 agencies, collectively referred to as the "affected public
613 agencies."

614 (8) If ten percent (10%) or fifteen hundred (1500),
615 whichever is less, of the qualified electors of each affected
616 public agency shall file a written protest against the issuance of
617 such bonds with the board of directors of the district on or
618 before the date and time specified in such resolution, then an



619 election on the question of the issuance of such bonds shall be
620 called and held as hereinafter set forth in this section; however,
621 in the event Harrison County is an affected public agency, then
622 the qualified electors of the county shall mean the qualified
623 electors of such county who reside within the unincorporated areas
624 within the county's geographical limits. If no such protest be
625 filed, then such bonds may be issued without an election on the
626 question of issuance thereof at any time within a period of two
627 (2) years after the date specified in the above-mentioned
628 resolution. Nothing contained herein shall be construed to
629 require the adoption or publication of a resolution of the kind
630 described in this subsection, or to grant any right of protest or
631 election, with respect to the issuance of interim certificates,
632 notes, refunding bonds as provided in Section 12 of this act or
633 other evidences of indebtedness of the district.

634 (9) Where an election is to be called as provided in this
635 act, the board of directors of the district shall give notice of
636 such election to the governing authority of each of the affected
637 public agencies. The governing authority of each affected public
638 agency shall publish a notice of such election once a week for at
639 least three (3) consecutive weeks in a newspaper having a general
640 circulation within Harrison County. The first publication of such
641 notice shall be made not less than twenty-one (21) days prior to
642 the date fixed for such election and the last publication shall be
643 made not more than seven (7) days prior to such a date.

644 (10) An election provided for in this act shall be held in
645 each of the affected public agencies, as far as practicable, in
646 the same manner as other elections are held in such affected
647 public agencies; provided, however, that in the event one or more
648 affected public agencies have overlapping geographical limits,
649 then such affected public agencies with overlapping geographical
650 limits may provide for consolidated election in such manner as
651 their respective governing authorities may determine. At such



652 election, all qualified electors of each affected public agency
653 may vote; however, in the event Harrison County is an affected
654 public agency, then the qualified electors of such county shall
655 mean the qualified electors of such county who reside within the
656 unincorporated areas within Harrison County's geographical limits.
657 The ballots used at such election shall have printed thereon a
658 brief statement of the principal amount and purpose of the
659 proposed bond issue and the words "FOR THE BOND ISSUE" and
660 "AGAINST THE BOND ISSUE," and the voters shall vote by placing a
661 cross (x) or check mark (√) opposite his choice on the
662 proposition; however, if the election is being held pursuant to
663 Section 8(2) of this act, the ballot shall contain a brief
664 statement of the nature of the contract and the words "FOR THE
665 CONTRACT" and "AGAINST THE CONTRACT," and the voters shall vote by
666 placing a cross (x) or check mark (√) opposite his choice on the
667 proposition.

668 (11) When the results of the election on the question of the
669 issuance of such bonds as provided in this section shall have been
670 canvassed by the respective election directors of the affected
671 public agencies and certified by them to the board of directors of
672 the district, it shall be the duty of the board of directors of
673 the district to determine and adjudicate whether or not a majority
674 of the qualified electors who voted thereon in each of the
675 affected public agencies voted in favor of the issuance of such
676 bonds, and unless a majority of the qualified electors who voted
677 thereon in each of the affected public agencies voted in favor of
678 the issuance of such bonds, then such bonds shall not be issued.
679 Should a majority of the qualified electors who vote thereon in
680 each of the affected public agencies vote in favor of the issuance
681 of such bonds, then the board of directors of the district may
682 issue such bonds, either in whole or in part, and if in part from
683 time to time, within two (2) years from the date of such election
684 or within two (2) years after the final favorable termination of



685 any litigation affecting the issuance of such bonds, as shall be
686 determined by the board of directors.

687 **SECTION 12.** The district may issue refunding bonds for the
688 purpose of paying any of its bonds at or prior to maturity or upon
689 acceleration or redemption. Refunding bonds may be issued at such
690 time prior to the maturity or redemption of the refunded bonds as
691 the district deems to be in the public interest. The refunding
692 bonds may be issued in sufficient amounts to pay or provide for
693 the payment of the principal of the bonds being refunded, together
694 with any redemption premium thereon, any interest accrued or to
695 accrue to the date of payment of such bonds, the expenses of
696 issuing the refunding bonds, the expenses of redeeming the bonds
697 being refunded, and such reserves for debt services or other
698 capital or current expenses from the proceeds of such refunding
699 bonds as may be required by the resolution, trust indenture or
700 other security instruments. The issue of refunding bonds, the
701 maturities and other details thereof, the security therefor, the
702 rights of the holders and the rights, duties and obligations of
703 the district in respect of such bonds shall be governed by the
704 provisions of this act relating to the issuance of bonds other
705 than refunding bonds insofar as the same may be applicable.

706 **SECTION 13.** All bonds issued pursuant to this act may be
707 validated as now provided by law in Sections 31-13-1 through
708 31-13-11, Mississippi Code of 1972. Such validation proceedings
709 shall be instituted in the Chancery Court of Harrison County.

710 **SECTION 14.** Bonds issued under the provisions of this act
711 shall not be deemed to constitute, within the meaning of any
712 constitutional or statutory limitation, a debt, liability or
713 obligation of the state, nor shall such bonds constitute a pledge
714 of the full faith and credit of the state, but shall be payable
715 solely from the revenues or assets of the district pledged
716 therefor. Each bond issued under this act shall contain on the
717 face thereof a statement to the effect that the district shall



718 not be obligated to pay the same nor the interest thereon except
719 from the revenues or assets pledged therefor and that neither the
720 full faith and credit nor the taxing power of the state is pledged
721 to the payment of the principal of or the interest on such bonds.

722 **SECTION 15.** The district shall have the power in connection
723 with the issuance of its bonds to:

724 (a) Covenant as to the use of any or all of its
725 property, real or personal;

726 (b) Redeem the bonds, to covenant for their redemption
727 and to provide the terms and conditions thereof;

728 (c) Covenant to charge rates, fees and charges
729 sufficient to meet operating and maintenance expenses, renewals
730 and replacements, principal and debt service on bonds, creation
731 and maintenance of any reserves required by a bond resolution,
732 trust indenture or other security instrument and to provide for
733 any margins or coverages over and above debt service on the bonds
734 deemed desirable for the marketability of the bonds;

735 (d) Covenant and prescribe as to events of default and
736 terms and conditions upon which any or all of its bonds shall
737 become or may be declared due before maturity, as to the terms and
738 conditions upon which such declaration and its consequences may be
739 waived and as to the consequence of default and the remedies of
740 bondholders;

741 (e) Covenant as to the mortgage or pledge of or the
742 grant of a security interest in any real or personal property and
743 all or any part of the revenues from any collection facilities or
744 any revenue-producing contract or contracts made by the district
745 with any person to secure the payment of bonds, subject to such
746 agreements with the holders of bonds as may then exist;

747 (f) Covenant as to the custody, collection, securing,
748 investment and payment of any revenues, assets, money, funds or
749 property with respect to which the district may have any rights or
750 interest;



751 (g) Covenant as to the purposes to which the proceeds
752 from the sale of any bonds then or thereafter to be issued may be
753 applied, and the pledge of such proceeds to secure the payment of
754 the bonds;

755 (h) Covenant as to the limitations on the issuance of
756 any additional bonds, the terms upon which additional bonds may be
757 issued and secured, and the refunding of outstanding bonds;

758 (i) Covenant as to the rank or priority of any bonds
759 with respect to any lien or security;

760 (j) Covenant as to the procedure by which the terms of
761 any contract with or for the benefit of the holders of the bonds
762 may be amended or abrogated, the amount of bonds the holders of
763 which must consent thereto, and the manner in which such consent
764 may be given;

765 (k) Covenant as to the custody of any of its properties
766 or investments, the safekeeping thereof, the insurance to be
767 carried thereon, and the use and disposition of insurance
768 proceeds;

769 (l) Covenant as to the vesting in a trustee or
770 trustees, within or outside the state, of such properties, rights,
771 powers and duties in trust as the district may determine;

772 (m) Covenant as to the appointing and providing for the
773 duties and obligations of a paying agent or paying agents or other
774 fiduciaries within or outside the state;

775 (n) Make all other covenants and to do any and all such
776 acts and things as may be necessary or convenient or desirable in
777 order to secure its bonds, or which in the absolute discretion of
778 the district tend to make the bonds more marketable,
779 notwithstanding that such covenants, acts or things may not be
780 enumerated herein, it being the intention hereof to give the
781 district power to do all things in the issuance of bonds and in
782 the provisions for security thereof which are not inconsistent
783 with the Mississippi Constitution of 1890; and



784 (o) Execute all instruments necessary or convenient in
785 the exercise of the powers herein granted or in the performance of
786 covenants or duties, which may contain such covenants and
787 provisions, as any purchaser of the bonds of the district may
788 reasonably require.

789 **SECTION 16.** The district may, in any authorizing resolution
790 of the board of directors, trust indenture or other security
791 instrument relating to its bonds, provide for the appointment of a
792 trustee who shall have such powers as are provided therein to
793 represent the bondholders of any issue of bonds in the enforcement
794 or protection of their rights under any such resolution, trust
795 indenture or security instrument. The district may also provide
796 in such resolution, trust indenture or other security instrument
797 that the trustee, or in the event that the trustee so appointed
798 shall fail or decline to so protect and enforce such bondholders'
799 rights, then such percentage of bondholders as shall be set forth
800 in, and subject to the provisions of, such resolution, trust
801 indenture or other security instrument, may petition the chancery
802 court of proper jurisdiction for the appointment of a receiver of
803 the stormwater collection and/or management facilities, the
804 revenues of which are pledged to the payment of the principal of
805 and interest on the bonds held by such bondholder. Such receiver
806 may exercise any power as may be granted in any such resolution,
807 trust indenture or security instrument to enter upon and take
808 possession of, acquire, construct or reconstruct, or operate and
809 maintain such facilities, fix, charge, collect, enforce and
810 receive all revenues derived from such facilities and perform the
811 public duties to carry out the contracts and obligations of the
812 district in the same manner as the district itself might do, all
813 under the direction of such chancery court.

814 **SECTION 17.** (1) The exercise of the powers granted by this
815 act will be in all respects for the benefit of the people of the
816 state, for their well-being and prosperity and for the improvement



817 of their social and economic conditions, and the district shall
818 not be required to pay any tax or assessment on any property owned
819 by the district under the provisions of this act or upon the
820 income therefrom; nor shall the district be required to pay any
821 recording fee or transfer tax of any kind on account of
822 instruments recorded by it or on its behalf.

823 (2) Any bonds issued by the district under the provisions of
824 this act, their transfer and the income therefrom shall at all
825 times be free from taxation by the state or any local unit or
826 political subdivision or other instrumentality of the state
827 excepting inheritance and gift taxes.

828 **SECTION 18.** All bonds issued under the provisions of this
829 act shall be legal investments for trustees, other fiduciaries,
830 savings banks, trust companies and insurance companies organized
831 under the laws of the State of Mississippi; and such bonds shall
832 be legal securities which may be deposited with and shall be
833 received by all public officers and bodies of the state and all
834 municipalities and political subdivisions for the purpose of
835 securing the deposit of public funds.

836 **SECTION 19.** Whether or not any bonds of the district and
837 interest coupons, if any, appertaining thereto would otherwise so
838 qualify, such bonds and coupons are hereby made investment
839 securities within the meaning and for all purposes of Article 8 of
840 the Uniform Commercial Code as enacted in the state.

841 **SECTION 20.** The state hereby covenants with the holders of
842 any bonds of the district that so long as the bonds are
843 outstanding and unpaid, the state will not limit or alter the
844 rights and powers of the district under this act to conduct the
845 activities referred to herein in any way pertinent to the
846 interests of the bondholders, including without limitation, the
847 district's right to charge and collect rates, fees and charges and
848 to fulfill the terms of any covenants made with bondholders, or in
849 any other way impair the rights and remedies of the bondholder,



850 unless provision for full payment of such bonds, by escrow or
851 otherwise, has been made pursuant to the terms of the bonds or the
852 resolution, trust indenture or security instrument securing the
853 bonds.

854 **SECTION 21.** If the district finds and records on its minutes
855 that the acquisition or construction of any collection and/or
856 management facilities, or any interest therein, or any portion
857 thereof, or any property or any interest therein or any portion
858 thereof, which is authorized by this act is available or can be
859 acquired or contracted for, from or with only a single source,
860 person, firm or corporation, then such acquisition or contract may
861 be made or entered into without meeting the requirements of any
862 law relating to acquisition purchases or contracts by competitive
863 bids. If, after advertising for competitive bids as to other
864 proposed purchases, acquisition or contract, only one (1) bid is
865 received, the district may reject the bid and negotiate privately
866 any purchase, contract or acquisition for a consideration not
867 exceeding that proposed in the bid.

868 **SECTION 22.** The district shall cause an audit of its books
869 and accounts to be made at least once in each year by an
870 independent certified public accountant and the cost thereof may
871 be paid from any available money of the district.

872 **SECTION 23.** This act shall be deemed to provide an
873 additional, alternative and complete method for the doing of the
874 things authorized hereby and shall be deemed and construed to be
875 supplemental and additional to any powers conferred by other law
876 on public agencies (including the provisions of Sections 51-39-1
877 through 51-39-43, Mississippi Code of 1972) and not in derogation
878 of any such powers now existing; provided, that insofar as the
879 provisions of this act are inconsistent with the provisions of any
880 other law, general, special or local, (including the provisions of
881 Sections 51-39-1 through 51-39-43, Mississippi Code of 1972) now



882 in existence or hereafter (unless with specific reference to this
883 act) adopted, the provisions of this act shall be controlling.

884 Except as expressly provided in this act, the actions
885 contemplated hereby, other than the issuance and sale of bonds by
886 the district but otherwise including without limitation the
887 entering into of the contracts referred to in Sections 8 and 11 of
888 this act by the district, the contracting public agencies and any
889 other persons thereto, and the setting of rates, fees and charges
890 by the district, may be taken without the obtaining of any
891 authorization approval or consent of the state or any political
892 subdivision or any department, division, commission, board,
893 bureau, agency or instrumentality of either thereof and without
894 any other proceeding or the fulfilling of any other condition or
895 the happening of any other thing, except as expressly provided in
896 this act.

897 **SECTION 24.** This act shall take effect and be in force from
898 and after its passage.

