

By: Representative Brown

To: Conservation and Water Resources; Ways and Means

COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 1481

1 AN ACT TO AMEND SECTION 51-39-25, MISSISSIPPI CODE OF 1972,
2 TO AUTHORIZE STORM WATER MANAGEMENT DISTRICTS TO ASSESS A CERTAIN
3 AMOUNT OF USER FEES; TO AMEND SECTION 51-39-43, MISSISSIPPI CODE
4 OF 1972, TO CONFORM TO THE PRECEDING SECTION; AND FOR RELATED
5 PURPOSES.

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

7 **SECTION 1.** Section 51-39-25, Mississippi Code of 1972, is
8 amended as follows:

9 51-39-25. The district shall have all the rights and powers
10 necessary or convenient to carry out the purposes of this chapter,
11 including, but not limited to, the following:

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

13 (b) To adopt an official seal and alter the seal at its
14 pleasure;

15 (c) To maintain an office or offices at any place or
16 places within the geographic boundaries of its members as it may
17 determine;

18 (d) To establish a graduated storm water user fee,
19 which may be assessed and collected from each user of the storm
20 water facilities provided by the district. The fees shall be
21 reasonable in an amount not to exceed Three Dollars and
22 Seventy-seven Cents (\$3.77) and used exclusively by the district
23 for the purposes set forth in this act. The graduated storm water
24 user fee shall be based on actual or estimated use of the storm
25 water facility of the district and each user or user class shall
26 only be required to pay its proportionate share of the
27 construction, administration, operation and maintenance costs of
28 the facilities based on the actual or estimated proportionate

29 contribution to the total storm water runoff from all users or
30 user classes. To insure a proportionate distribution of all costs
31 to each user or user class, the user contribution shall be based
32 on factors such as the amount of impervious area utilized by the
33 user and the volume or rate of storm water runoff;

34 The fee structure shall provide adjustments for users who
35 construct facilities to retain and control the storm water runoff.
36 Prior to establishing or amending any user fees, the district
37 shall advertise its intent to do so by publishing a notice in a
38 newspaper of general circulation in the area served by the
39 district at least thirty (30) days in advance of the meeting at
40 which the district shall consider user fee proposals. The
41 following shall be exempted from payment of user fees authorized
42 by the district:

43 (i) Users whose storm water runoff is not
44 discharged into or through the storm water facilities of the
45 district;

46 (ii) Any entity that possesses a valid individual
47 storm water National Pollution Discharge Elimination System
48 (NPDES) permit;

49 (iii) Any entity that has coverage under a general
50 storm water National Pollution Discharge Elimination System
51 (NPDES) permit; and

52 (iv) Any Class II real property, as defined in
53 Section 112 of the Mississippi Constitution of 1890, that is
54 classified as agriculture or forest land;

55 (e) To acquire, construct, improve, or modify, to
56 operate or cause to be operated and maintained, either as owner of
57 all or of any part in common with others, a storm water management
58 system within the counties or municipalities in the district. The
59 district may pay all or part of the cost of any storm water
60 management system from any contribution by persons, firms, public
61 agencies or corporations. The district may receive, accept and

62 use all funds, public or private, and pay all cost of development,
63 implementation and maintenance as may be determined as necessary
64 for any project;

65 (f) To acquire, in its own name, by purchase on any
66 terms and conditions and in any manner as it may deem proper,
67 except by eminent domain, property for public use, or by gift,
68 grant, lease or otherwise, real property or easements therein,
69 franchises and personal property necessary or convenient for its
70 corporate purposes. These purposes shall include, but are not
71 limited to, the constructing or acquiring of a storm water
72 management system; the improving, extending, reconstructing,
73 renovating or remodeling of any existing storm water management
74 system or part thereof; or the demolition to make room for any
75 project or any part thereof. The district may insure the storm
76 water management system against all risks as any insurance may,
77 from time to time, be available. The district may also use any
78 property and rent or lease any property to or from others,
79 including public agencies, or make contracts for the use of the
80 property. The district may sell, lease, exchange, transfer,
81 assign, pledge, mortgage or grant a security interest for any
82 property. The powers to acquire, use and dispose of property as
83 set forth in this paragraph shall include the power to acquire,
84 use and dispose of any interest in that property, whether divided
85 or undivided. Title to any property of the district shall be held
86 by the district exclusively for the benefit of the public;

87 (g) To adopt, modify, repeal and promulgate rules and
88 regulations implementing or effectuating the powers and duties of
89 the district under any statute within the district's jurisdiction,
90 and where otherwise not prohibited by federal or state law, to
91 make exceptions to and grant variances and exemptions from, and to
92 enforce those rules and regulations. Those rules and regulations
93 may include, but shall not be limited to, rules and regulations
94 for (i) the management of the district's business and affairs;

95 (ii) the use, operation, maintenance or implementation of the
96 district's storm water management system or any portion of that
97 system, facility or any other property owned or operated by the
98 district; and (iii) specifications and standards relating to the
99 planning, design or construction of the storm water management
100 system or any facility owned or operated by the district;

101 (h) To enter into contracts or leases with any person
102 or public agency and to execute all instruments necessary or
103 convenient for construction, operation and maintenance of the
104 storm water management system and leases of projects. Without
105 limiting the generality of the above, authority is specifically
106 granted to units of local government and to the district to enter
107 into contracts, lease agreements or other undertaking relative to
108 the furnishing of storm water management system services or
109 facilities or both by the district to a unit of local government
110 and by a unit of local government to the district;

111 (i) To exercise any powers, rights or privileges
112 conferred by this chapter either alone or jointly or in common
113 with any other public or private parties. In any exercise of any
114 powers, rights and privileges jointly or in common with others for
115 the construction, operation and maintenance of facilities, the
116 district may own an undivided interest in any facilities with any
117 other party with which it may jointly or in common exercise the
118 rights and privileges conferred by this chapter and may enter into
119 any agreement with respect to any facility with any other party
120 participating in those facilities. An agreement may contain any
121 terms, conditions and provisions, consistent with this section, as
122 the parties to the agreement shall deem to be in their best
123 interest including, but not limited to, provisions for the
124 planning, design, construction, operation, implementation and
125 maintenance of any facility by any party to an agreement. Any
126 party or parties shall be designated in or under any agreement as
127 agent or agents on behalf of itself and one or more of the other

128 parties to the agreement, or by any other means as may be
129 determined by the parties. The agreement shall include a method
130 or methods of determining and allocating, among the parties, costs
131 of planning, design, construction, operation, maintenance,
132 renewals, replacements, improvements and disposal related to any
133 facility. In carrying out its functions and activities as an
134 agent with respect to planning, design, construction, operation
135 and maintenance of any facility, the agent shall be governed by
136 the laws and regulations applicable to that agent as a separate
137 legal entity and not by any laws or regulations which may be
138 applicable to any of the other participating parties. The agent
139 shall act for the benefit of the public. In any agreement, the
140 district may delegate its powers and duties related to the
141 planning, design, construction, operation and maintenance of any
142 facility to the party acting as agent and all actions taken by
143 that agent in accordance with the agreement may be binding upon
144 the district without further action or approval of the district;

145 (j) To apply, contract for, accept, receive and
146 administer gifts, grants, appropriations and donations of money,
147 materials and property of any kind, including loans and grants
148 from the United States, the state, a unit of local government, or
149 any agency, department, authority or instrumentality of any of the
150 foregoing, upon any terms and conditions as the United States, the
151 state, a unit of local government, or any agency, department,
152 authority or instrumentality shall impose. The district may
153 administer trusts. The district may sell, lease, transfer,
154 convey, appropriate and pledge any and all of its property and
155 assets;

156 (k) To employ professional and administrative staff and
157 personnel and to retain legal, engineering, fiscal, accounting and
158 other professional services;

159 (l) To assume or continue any contractual or other
160 business relationships entered into by the municipalities or

161 counties who are members of the district, including the rights to
162 receive and acquire transferred rights under option to purchase
163 agreements;

164 (m) To enter on public or private lands, waters or
165 premises for the purpose of making surveys, borings or soundings,
166 or conducting tests, examinations or inspections for the purposes
167 of the district, subject to responsibility for any damage done to
168 property entered;

169 (n) To do and perform any acts and things authorized by
170 this chapter under, through or by means of its officers, agents
171 and employees, or by contracts with any person; and

172 (o) To do and perform any and all acts or things
173 necessary, convenient or desirable for the purposes of the
174 district, or to carry out any power expressly granted in this
175 chapter.

176 **SECTION 2.** Section 51-39-43, Mississippi Code of 1972, is
177 amended as follows:

178 51-39-43. This chapter, without reference to any other
179 statute, shall be deemed to be full and complete authority for the
180 creation of a district. No proceedings shall be required for the
181 creation of a district other than those provided for and required
182 in this chapter. All the necessary powers to be exercised by the
183 governing body of a county or municipality and by the board of
184 commissioners of any district, in order to carry out this chapter,
185 are hereby conferred.

186 The powers conferred by this chapter are in addition and
187 supplemental to other powers conferred by law.

188 **SECTION 3.** This act shall take effect and be in force from
189 and after July 1, 2005.