

By: Representative Guice

To: Conservation and Water Resources

HOUSE BILL NO. 808

1 AN ACT TO REQUIRE 20% OF ANY FEDERAL FUNDS RECEIVED BY THE  
2 MISSISSIPPI DEVELOPMENT AUTHORITY TO EFFECTUATE THE PROVISIONS OF  
3 THE MISSISSIPPI GULF REGION UTILITY ACT TO BE DISTRIBUTED TO  
4 CITIES AND UTILITY DISTRICTS; TO AMEND SECTION 49-17-733,  
5 MISSISSIPPI CODE OF 1972, TO REVISE THE NUMBER OF DIRECTORS THAT  
6 ARE REQUIRED TO SERVE ON THE JACKSON COUNTY UTILITY AUTHORITY; TO  
7 AMEND SECTIONS 49-17-743 AND 49-17-745, MISSISSIPPI CODE OF 1972,  
8 TO RESTRICT THE AUTHORITY OF A COUNTY AUTHORITY TO ACQUIRE AND  
9 CONTROL A LOCAL UTILITY DISTRICT; AND FOR RELATED PURPOSES.

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

11 **SECTION 1.** The following shall be codified as Section  
12 49-17-704, Mississippi Code of 1972:

13 49-17-704. Twenty percent (20%) of any federal funds  
14 received by the Mississippi Development Authority to effectuate  
15 the provisions of the Mississippi Gulf Region Utility Act shall be  
16 distributed to the cities and utility districts that existed  
17 before April 18, 2006, for the purpose of improvement and repairs  
18 within the city or utility district.

19 **SECTION 2.** Section 49-17-733, Mississippi Code of 1972, is  
20 amended as follows:

21 49-17-733. (1) Upon creation of the Jackson County Utility  
22 Authority, all powers of the Jackson County Utility Authority  
23 shall be exercised by the Board of Directors of the Mississippi  
24 Gulf Coast Regional Wastewater Authority.

25 (2) Upon consolidation of the Jackson County Utility  
26 Authority and the Mississippi Gulf Coast Wastewater Authority, the  
27 county authority shall be governed by a board consisting of nine  
28 (9) directors.

29 (a) The members of the Board of Directors of the  
30 Mississippi Gulf Coast Regional Wastewater Authority shall serve

31 as Directors of the Jackson County Utility Authority until the  
32 expiration of their existing terms. Upon expiration of a member's  
33 term, the governing body making the appointment shall appoint a  
34 person residing within the corporate boundaries of the governing  
35 body to serve as a director.

36 (b) The City of Gautier shall appoint one (1) director  
37 who resides within the City of Gautier for an initial term of  
38 three (3) years.

39 (c) The Board of Supervisors of Jackson County shall  
40 appoint four (4) additional directors for an initial term of two  
41 (2) and four (4) years, respectively, two (2) who reside within  
42 the unincorporated area of Jackson County, two (2) of the largest  
43 users of wastewater in the county. One (1) of the largest users  
44 of wastewater shall reside in West Jackson County and the other  
45 largest user shall reside in East Jackson County.

46 (3) (a) After expiration of the initial terms, all  
47 appointed directors shall serve a term of six (6) years.

48 (b) No director shall hold an elected public office.

49 (4) In addition to any other powers and rights conferred  
50 upon such board of directors, the board is granted and may  
51 exercise all powers and rights granted pursuant to Sections  
52 49-17-739 through 49-17-773 to promote the health, welfare and  
53 prosperity of the general public.

54 **SECTION 3.** Section 49-17-743, Mississippi Code of 1972, is  
55 amended as follows:

56 49-17-743. From and after the passage of this act, each and  
57 every county authority shall have, in addition to any other powers  
58 granted under any other provision of law, including, but not  
59 limited to, the following:

60 (a) To acquire, construct, improve, enlarge, extend,  
61 repair, operate and maintain one or more of its systems used for  
62 the collection, transportation, treatment and disposal of water,  
63 wastewater and storm water;

64 (b) To make contracts with any person in furtherance  
65 thereof; and to make contracts with any person, under the terms of  
66 which the county authority will collect, transport, treat or  
67 dispose of water, wastewater and storm water for such person;

68 (c) To make contracts with any person to design and  
69 construct any water, wastewater and storm water systems or  
70 facilities, and thereafter to purchase, lease or sell, by  
71 installments over such terms as may be deemed desirable,  
72 reasonable and necessary, or otherwise, any such system or  
73 systems;

74 (d) To enter into operating agreements with any person,  
75 for such terms and upon such conditions as may be deemed  
76 desirable, for the operation of any water, wastewater and storm  
77 water systems; and the county authority may lease to or from any  
78 person, for such term and upon such conditions as may be deemed  
79 desirable, any water, wastewater and storm water collection,  
80 transportation, treatment or its other facilities or systems. Any  
81 such contract may contain provisions requiring any public agency  
82 or other person to regulate the quality and strength of materials  
83 to be handled by the respective system or systems and also may  
84 provide that the county authority shall have the right to use any  
85 streets, alleys and public ways and places within the jurisdiction  
86 of a public agency or other person during the term of the  
87 contract;

88 (e) To enter into contracts with any person or any  
89 public agency, including, but not limited to, contracts authorized  
90 by this act, in furtherance of any of the purposes authorized  
91 under this act upon such consideration as the board of directors  
92 and such person may agree. Any such contract may extend over any  
93 period of time, notwithstanding any provision or rule of law to  
94 the contrary; may be upon such terms and for such consideration,  
95 nominal or otherwise, as the parties thereto shall agree; and may  
96 provide that it shall continue in effect until bonds specified

97 therein, refunding bonds issued in lieu of such bonds, and all  
98 other obligations specified therein are paid or terminated. Any  
99 such contract shall be binding upon the parties thereto according  
100 to its terms;

101 (f) To adopt an official seal and alter the same at  
102 pleasure;

103 (g) To sue and be sued, in its own name, and to enjoy  
104 all of the protections, immunities and benefits provided by the  
105 Mississippi Tort Claims Act, as it may be amended or supplemented  
106 from time to time;

107 (h) To maintain office space at such place or places  
108 within the county authority boundaries as it may determine;

109 (i) To invest money of the county authority, including  
110 proceeds from the sale of any bonds subject to any agreements with  
111 bondholders, on such terms and in such manner as the county  
112 authority deems proper;

113 (j) To require the necessary relocation or rerouting of  
114 roads and highways, railroad, telephone and telegraph lines, and  
115 properties, electric power lines, gas pipelines and related  
116 facilities, or to require the anchoring or other protection of any  
117 of these, provided fair compensation is first paid to the owners  
118 or an agreement with such owners regarding the payment of the cost  
119 of such relocation, and to acquire easements or rights-of-way for  
120 such relocation or rerouting and to convey the same to the owners  
121 of the property being relocated or rerouted in connection with the  
122 purposes of this act;

123 (k) To acquire, construct, improve or modify, to  
124 operate or cause to be operated and maintained, either as owner of  
125 all or of any part in common with others, any water, wastewater or  
126 storm water system within the county authority's service area.  
127 The county authority may pay all or part of the cost of any system  
128 from any contribution by persons, firms, public agencies or  
129 corporations. The county authority may receive, accept and use

130 all funds, public or private, and pay all costs of the  
131 development, implementation and maintenance as may be determined  
132 as necessary for any project;

133 (l) To acquire, in its own name, by purchase on any  
134 terms and conditions and in any manner as it may deem proper,  
135 including by eminent domain, property for public use, or by gift,  
136 grant, lease, or otherwise, real property or easements therein,  
137 franchises and personal property necessary or convenient for its  
138 corporate purposes;

139 (m) To acquire insurance for the county authority's  
140 systems, facilities, buildings, treatment plants and all property,  
141 real or personal, to insure against all risks as any insurance  
142 may, from time to time, be available;

143 (n) To use any property and rent or lease any property  
144 to or from others, including public agencies, or make contracts  
145 for the use of the property. The county authority may sell,  
146 lease, exchange, transfer, assign, pledge, mortgage or grant a  
147 security interest for any property. The powers to acquire, use  
148 and dispose of property as set forth in this paragraph shall  
149 include the power to acquire, use and dispose of any interest in  
150 that property, whether divided or undivided. Title to any  
151 property of the county authority shall be held by the county  
152 authority exclusively for the benefit of the public;

153 (o) To apply, contract for, accept, receive and  
154 administer gifts, grants, appropriations and donations of money,  
155 materials and property of any kind, including loans and grants  
156 from the United States, the state, a unit of local government, or  
157 any agency, department, district or instrumentality of any of the  
158 foregoing, upon any terms and conditions as the United States, the  
159 state, a unit of local government, or any agency, department,  
160 district or instrumentality shall impose. The county authority  
161 may administer trusts. The county authority may sell, lease,

162 transfer, convey, appropriate and pledge any and all of its  
163 property and assets;

164 (p) To make and enforce, and from time to time amend  
165 and repeal, bylaws, rules, ordinances and regulations for the  
166 management of its business and affairs and for the construction,  
167 use, maintenance and operation of any of the systems under its  
168 management and control;

169 (q) To employ and terminate staff and other personnel,  
170 including attorneys, engineers and consultants as may be necessary  
171 to the functioning of the county authority. The board of  
172 directors, in its discretion, may employ an executive director  
173 having the authority to employ and fire employees and other duties  
174 as determined by the board;

175 (r) To establish and maintain rates, fees and any other  
176 charges for services and the use of systems and facilities within  
177 the control of the county authority, and from time to time, to  
178 adjust such rates, fees and any other charges to the end that the  
179 revenues therefrom will be sufficient at all times to pay the  
180 expenses of operating and maintaining of the facilities and  
181 treatment systems and all of the persons' obligations under any  
182 contract or bonds resolution with respect thereto or any  
183 obligation of any person under any agreement, contract, indenture  
184 or bonds resolution with respect thereto. Such rates, fees,  
185 assessments and any other charges shall not be subject to the  
186 jurisdiction of the Mississippi Public Service Commission;

187 (s) To adopt rules and regulations necessary to  
188 accomplish the purposes of the county authority and to assure the  
189 payment of each participating person or public agency of its  
190 proportionate share of the costs for use of any of the systems and  
191 facilities of the county authority and for the county authority's  
192 proportionate share of the costs of the utility board;

193 (t) To enter on public or private lands, waters or  
194 premises for the purpose of making surveys, borings or soundings,

195 or conducting tests, examinations or inspections for the purposes  
196 of the authority, subject to responsibility for any damage done to  
197 property entered;

198 (u) To accept industrial wastewater from within the  
199 boundaries of the county authority for treatment and to require  
200 the pretreatment of same when, in the opinion of the county  
201 authority, such pretreatment is necessary;

202 (v) To control and operate local retail water,  
203 wastewater and storm water services, and may provide or be  
204 responsible for direct servicing of those services to residences,  
205 businesses and individuals; however, the county authority shall  
206 not provide the same services in an area provided by a public  
207 utility or person holding a certificate of public convenience and  
208 necessity issued by the Mississippi Public Service Commission for  
209 the provision of such services in the certificated area. Any  
210 rates, fees, assessments or other charges shall not be under the  
211 control or regulation of the Mississippi Public Service  
212 Commission;

213 (w) To assume control and administer, within the county  
214 authority's jurisdiction, any water, wastewater or storm water  
215 system or systems by agreement or contract with any person if the  
216 person providing such services requests to be relieved of that  
217 responsibility. However, the person may maintain control over  
218 connections in their service areas and may charge rates, fees and  
219 any other charges in addition to the rates, fees and any charges  
220 of the county authority;

221 (x) The county authority shall have the power of  
222 eminent domain for the particular purpose of the acquisition of  
223 property designated by plan to sufficiently accommodate the  
224 location of water, wastewater or storm water systems and such  
225 requirements related directly thereto pursuant to the provisions  
226 of Chapter 27, Title 11, Mississippi Code of 1972. The county  
227 authority may acquire by eminent domain property necessary for any

228 system and the exercise of the powers, rights and duties conferred  
229 upon the county authority by this act. No person owning the  
230 drilling rights or the right to share in production shall be  
231 prevented from exploring, developing or producing oil or gas with  
232 necessary rights-of-way for ingress and egress, pipelines and  
233 other means of transporting such interests on any lands or  
234 interest of the county authority held or used for the purposes of  
235 this act, but any such activities shall be subject to reasonable  
236 regulations by the board of directors that will adequately protect  
237 the systems or projects of the county authority;

238 (y) To use any legally available funds to acquire,  
239 rebuild, operate and maintain any existing water, wastewater or  
240 storm water systems owned or operated by any person;

241 (z) To refuse to receive water, wastewater or storm  
242 water from any public agency or person; and

243 (aa) So long as any indebtedness on the systems of the  
244 county authority remains outstanding, to require by contract with  
245 a member public agency, or other person, that all water,  
246 wastewater and storm water within the boundaries of the respective  
247 county authority be disposed of through the appropriate treatment  
248 system to the extent that the same may be available, but no public  
249 agency shall be precluded from constructing, operating and  
250 maintaining its own such system after the current indebtedness  
251 owing on the system as of the effective date of this act is paid  
252 in full.

253 (bb) To acquire any local utility district only with  
254 the permission and authority of such utility district and only to  
255 the extent authorized by such utility district.

256 **SECTION 4.** Section 49-17-745, Mississippi Code of 1972, is  
257 amended as follows:

258 49-17-745. (1) The county authority shall have the power,  
259 duty and responsibility to exercise general supervision over the



260 design, construction, operation and maintenance of water,  
261 wastewater and storm water systems.

262 (2) The county authority shall adopt rules and regulations  
263 regarding the design, construction or installation, operation and  
264 maintenance of water, wastewater and storm water systems.

265 (3) The county authority shall adopt rules and regulations  
266 regarding the use of decentralized treatment systems, individual  
267 on-site wastewater treatment systems and centralized wastewater  
268 treatment systems.

269 (4) The county authority shall adopt rules establishing  
270 performance standards for water, wastewater and storm water  
271 systems and the operation and maintenance of the same. Such rules  
272 and regulations shall include the implementation of a standard  
273 application form for the installation, operation and maintenance  
274 of such systems; application review; approval or denial procedures  
275 for any proposed system; inspection, monitoring and reporting  
276 guidelines; and enforcement procedures.

277 (5) (a) Before a building or development which requires the  
278 installation of a water, wastewater or storm water system is  
279 constructed, the system must be submitted to the county authority  
280 for certification that the system complies with the county  
281 authority requirements for such system.

282 (b) Before approving or renewing a water, wastewater or  
283 storm water related permit for a system within a county authority,  
284 the state agency must require certification that the system  
285 complies with the requirements of the county authority.

286 (6) Any system of any municipality, public agency or other  
287 persons which becomes connected with, or tied into, the systems of  
288 the county authority shall be subject to the county authority's  
289 jurisdiction and the terms of this act.

290 (7) Notwithstanding the provisions of Section 51-39-1 et  
291 seq., the county authority shall have the full power to adopt  
292 rules and regulations and to construct, maintain and operate

293 facilities for the control of storm water quality and quantity.  
294 In addition, the provisions of Section 51-33-1 et seq. relating to  
295 drainage districts and flood control districts do not apply to the  
296 county authority. However, the county authority may acquire or  
297 absorb any utility district only with the permission and authority  
298 of such district and only to the extent authorized by such utility  
299 district.

300 (8) The county authority may control and operate the local  
301 retail water, wastewater or storm water services and may provide  
302 or be responsible for direct servicing of those services to  
303 residences, businesses and individuals; however, the county  
304 authority shall not provide the same service in an area provided  
305 by a public utility or person holding a certificate of public  
306 convenience and necessity issued by the Mississippi Public Service  
307 Commission for the provision of such services in the certificated  
308 area.

309 **SECTION 5.** This act shall take effect and be in force from  
310 and after its passage.