

MISSISSIPPI LEGISLATURE

2006 Regular Session

To: Environment Prot, Cons and Water Res; Finance

By: Senator(s) Moffatt, Cuevas, Dawkins, Gollott, Hewes, Lee (47th), Morgan, Robertson, Walley

Senate Bill 2943

(As Sent to Governor)

AN ACT TO CREATE THE MISSISSIPPI GULF REGION UTILITY BOARD; THE GEORGE COUNTY UTILITY AUTHORITY; THE STONE COUNTY UTILITY AUTHORITY; THE PEARL RIVER COUNTY UTILITY AUTHORITY; THE HANCOCK COUNTY UTILITY AUTHORITY; THE HARRISON COUNTY UTILITY AUTHORITY; AND THE JACKSON COUNTY UTILITY AUTHORITY; TO EMPOWER THE COUNTY AUTHORITIES; TO PROVIDE FOR A BOARD OF DIRECTORS FOR THE COUNTY AUTHORITIES; TO AUTHORIZE THE COUNTY AUTHORITIES TO PROVIDE WATER, WASTEWATER, AND STORM WATER SERVICES AND FACILITIES; TO AUTHORIZE THE AUTHORITIES TO ISSUE REVENUE BONDS FOR SUCH PROJECTS; TO REPEAL SECTIONS 49-17-161 THROUGH 49-17-209, MISSISSIPPI CODE OF 1972, WHICH CREATE AND EMPOWER THE SOUTHERN REGIONAL WASTEWATER MANAGEMENT DISTRICT; TO REPEAL SECTIONS 49-17-301 THROUGH 49-17-353, MISSISSIPPI CODE OF 1972, WHICH CREATE AND EMPOWER THE MISSISSIPPI GULF COAST REGIONAL WASTEWATER AUTHORITY; AND FOR RELATED PURPOSES.

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

SECTION 1. Title. Sections 1 through 38 of this act shall be known and may be cited as the "Mississippi Gulf Coast Region Utility Act."

SECTION 2. Legislative findings. In the spirit of the report of the Governor's Commission on Recovery, Rebuilding and Renewal, the Legislature finds that there is a need for consolidation of water, wastewater and storm water services in order to reduce costs, promote resilience in the event of a disaster, improve the quality of the natural environment, and improve the planning and delivery of quality water, wastewater and storm water services within the areas of the Counties of George, Hancock, Harrison, Jackson, Pearl River and Stone. It is further declared that there is the need for the planning, acquisition, construction, maintenance, operation and coordination of water, wastewater and storm water services in order to ensure protection of the waters of the state and to ensure the delivery of water, wastewater and storm water services to citizens

of the Gulf Coast Region. The creation of the Mississippi Gulf Coast Region Utility Act is determined to be necessary and essential to the accomplishment of these purposes. To facilitate the purposes of the act, the Gulf Coast Region Utility Board, the George County Utility Authority, the Hancock County Utility Authority, the Harrison County Utility Authority, the Jackson County Utility Authority, the Pearl River County Utility Authority and the Stone County Utility Authority are created herein.

SECTION 3. Definitions. Words and phrases used in this act shall have meanings as follows:

- (a) "Act" means the Mississippi Gulf Coast Region Utility Act.
- (b) "Bonds" mean interim notes having a maturity of three (3) years or less, revenue bonds and other certificates of indebtedness of the authority issued under the provisions of this act.
- (c) "County authority" means a county utility authority created in the Gulf Coast Region under this act.
- (d) "Fiscal year" means the period of time beginning on October 1 of each year and ending on September 30 of each year.
- (e) "Gulf Coast Region" means the areas encompassed by the Counties of George, Hancock, Harrison, Jackson, Pearl River and Stone.
- (f) "Municipality" means any incorporated city, town or village of the State of Mississippi, whether operating under general law or under special charter, lying wholly or partly within the Gulf Coast Region.
- (g) "Person" means the State of Mississippi, a county, a municipality, any public agency, or any other city, town, village or political subdivision or governmental agency, governmental instrumentality of the State of Mississippi or of the United States of America, or any private utility, individual, co-partnership, association, firm, trust, estate or any other entity whatsoever.
- (h) "Project" means the construction, development or acquisition by the county authority or county authorities of any infrastructure for water, wastewater and storm water systems or services and includes upgrading or repair of existing systems.
- (i) "Public agency" means any county, municipality, state board or commission owning or operating properties, district created pursuant to the general laws or local and private laws of the State of Mississippi, or other political subdivision of the State of Mississippi having the power to own and operate waterworks, water supply systems, sewerage systems, sewage treatment systems or other facilities or systems for the collection, transportation and treatment of water, wastewater and storm water.

(j) "Storm water" means any flow occurring during or following any form of natural precipitation and resulting from that precipitation.

(k) "System" or "systems" means any plants, structures, facilities and other real and personal property, used or useful in the generation, storage, transportation or supply of water, and the collection, transportation, treatment or disposal of wastewater and storm water, including, but not limited to, tanks, lakes, streams, ponds, pipes, trunk lines, mains, sewers, conduits, pipelines, pumping and ventilating stations, plants and works, connections and any other real and personal property and rights therein necessary, useful or convenient for the purposes of the utility board or authorities in connection therewith.

(l) "Wastewater" means water being disposed of by any person and which is contaminated with waste or sewage, including industrial, municipal and any other wastewater that may cause impairment of the quality of the waters in the state.

(m) "Water" means potable water, service water and groundwater.

(n) "Utility board" means the Mississippi Gulf Coast Region Utility Board.

SECTION 4. Creation of the Mississippi Gulf Coast Region Utility Board. (1) There is hereby created and established a public body corporate and politic constituting a political subdivision of the State of Mississippi to be known as the "Mississippi Gulf Coast Region Utility Board" to serve the citizens of the Gulf Coast Region. The utility board is created as a forum for the Gulf Coast Region to collaborate and cooperate regarding water, wastewater and storm water issues; to assist in the efficient management of water, wastewater and storm water resources; to develop recommendations pertaining to water, wastewater and storm water systems; and to provide assistance, funding and guidance to the county authorities to assist in the identification of the best means to meet all present and future water, wastewater and storm water needs in the Gulf Coast Region.

(2) This section shall repeal July 1, 2009.

SECTION 5. Board of Directors of the Mississippi Gulf Coast Region Utility Board. (1) (a) All powers of the Mississippi Gulf Coast Utility Board shall be exercised by a board of directors to be composed of the following: (i) the president of each county authority; and (ii) three (3) at-large directors, to be appointed by the Governor, who shall be residents of the Gulf Coast Region.

(b) The initial terms of the at-large directors shall be for two (2), four (4) and six (6) years as designated by the Governor. After the expiration of the initial terms, the subsequent terms shall be for a period of six (6) years. However, there shall be no more than one (1) at-large director appointed from any one (1) county. Each president may appoint a delegate, to represent him at a meeting of the board.

(2) At the initial meeting of the board, the board shall elect a president and a vice president. Thereafter, the board will annually, at the last meeting of the fiscal year, elect

a president and a vice president who shall serve in their respective offices for the next fiscal year. The directors shall serve without a salary but are entitled to receive per diem pay as provided for in Section 25-3-69, and for actual and necessary expenses incurred while in the performance of his duties as a member of the board as provided in Section 25-3-41.

(3) Any utility board member who does not attend three (3) consecutive regular meetings of the authority shall be subject to removal by a majority vote of the board and shall be replaced with an appointment from the Governor or governing body making the initial appointment.

(4) The president shall be the chief executive officer of the utility board and the presiding officer of the board, and shall have the same right to vote as any other director. The vice president shall act in the absence or disability of the president. Each director shall be required to give bond in the sum of not less than Fifty Thousand Dollars (\$50,000.00), with sureties qualified to do business in this state, and the premiums on the bond shall be an expense of the utility board. Each bond shall be payable to the State of Mississippi. The condition of each bond shall be that each director will faithfully perform all duties of his office and account for all money or other assets which shall come into his custody as a director of the utility board.

(5) A quorum for any meeting of the board of directors shall be the majority of the total membership of the board of directors. All business of the utility board shall be transacted by vote of the board of directors.

(6) The utility board shall conduct regular meetings as set forth in its bylaws. The utility board shall establish rules and regulations regarding its meetings and may amend such bylaws, rules and regulations as may be necessary to conduct the business of the board.

(7) This section shall repeal July 1, 2009.

SECTION 6. Employees; budget. (1) The utility board may hire an executive director and secretary-treasurer having the duties as determined by the utility board. The executive director must have a college degree. If hired, the executive director and secretary-treasurer each shall be required to give bond in a sum not less than Fifty Thousand Dollars (\$50,000.00), conditioned on the executive director and secretary-treasurer faithfully performing all duties of his office and account for all money and other assets which come into his custody as executive director or secretary-treasurer of the utility board.

(2) (a) The utility board shall prepare a budget consistent with its bylaws estimating its expenses and revenue needs for each forthcoming fiscal year at least ninety (90) days prior to the beginning of each fiscal year. The utility board shall submit its budget to each county authority prior to final approval by the utility board. Until such time as the utility board receives necessary funding from alternative sources, the "Public Trust

Tidelands Fund," found in Section 29-15-9, may provide the utility board with funds not to exceed Two Hundred Fifty Thousand Dollars (\$250,000.00) per year as specifically appropriated by the Legislature for the utility board's operational costs.

(b) Any funds, gifts or grants allocated for the administrative costs related to the restoration or construction of water, wastewater and storm water services and projects in the Gulf Coast Region under this act shall, to the extent allowable, be paid into the Public Trust Tidelands Fund for the repayment of any tideland funds expended for the operational costs of the utility board.

(3) The utility board shall have the authority to receive and spend funds from any source.

(4) This section shall repeal July 1, 2009.

SECTION 7. Duties and responsibilities of the utility board. (1) The utility board shall have the right and powers necessary to carry out the purposes of this act, including, but not limited to:

(a) Make recommendations to the county authorities pertaining to water, wastewater and storm water issues in the Gulf Coast Region;

(b) Make recommendations necessary to achieve compatibility and uniformity of systems and technology related to water, wastewater and storm water in the Gulf Coast Region;

(c) Help resolve cross-jurisdictional and multicounty disputes pertaining to water, wastewater and storm water issues between county authorities when requested by the county authorities;

(d) Recommend short-term and long-term priorities for water, wastewater and storm water related projects;

(e) Recommend emergency preparedness procedures in the Gulf Coast Region related to water, wastewater and storm water;

(f) Recommend training standards related to operations of water, wastewater and storm water systems;

(g) Sue and be sued in its own name and to enjoy all the protections, immunities and benefits provided by the Mississippi Tort Claims Act, as it may be amended from time to time;

(h) Adopt an official seal and alter the same at pleasure;

(i) Maintain office space at such place or places within the boundaries of the board as it may determine;

(j) Own or lease real or personal property;

(k) Invest money of the utility board, including proceeds from the sale of any bonds subject to any agreements with bond holders on such terms and in such manner as the utility board deems proper;

(l) Apply for, accept and utilize grants, gifts and other funds from any source for any purpose necessary in support of the purpose of this act and to coordinate the distribution of funds to the county authorities;

(m) Employ and terminate staff, including, but not limited to, attorneys, engineers and consultants as may be necessary;

(n) Enter into contracts for all operation and maintenance needs of the utility board;

(o) Enter into contracts to conduct studies of regional issues regarding water, wastewater and storm water services and to provide assistance, funds and guidance in the construction, operation and maintenance of regional water, wastewater and storm water services;

(p) Enter into contracts with any person or any public agency in furtherance of any of the purposes authorized by this act upon such consideration as the board of directors and such person may agree. Any such contract may extend over any period of time, including a term which extends beyond the term of the then majority of the existing board members, notwithstanding any provision or rule of law to the contrary; may be upon such terms and for such consideration, nominal or otherwise, as the parties thereto shall agree; and may provide that it shall continue in effect until bonds specified therein, refunding bonds issued in lieu of such bonds, and all other obligations specified therein are paid or terminated. Any such contract shall be binding upon the parties thereto according to its terms. The utility board may also assume or continue any contractual or other business relationships entered into by the members of the utility board, including the rights to receive and acquire property transferred under option to purchase agreements;

(q) Contract with the authorities under any terms mutually agreed by the parties to carry out any powers, duties or responsibilities granted by this act or any other laws to the authorities;

(r) Acquire insurance for the utility board's systems, facilities, buildings, treatment plants and all property, real or personal, to insure against all risks as any insurance may, from time to time, be available;

(s) Make, enforce, amend and repeal rules and regulations for the management of the utility board's business and affairs;

(t) Enter onto public or private lands, waters or premises for the purposes of making surveys, borings or soundings, or conducting tests, examinations or inspections for the purposes of the utility board, subject to responsibility for any damage done to property entered;

(u) Apply, contract for, accept, receive and administer gifts, grants, appropriations and donations of money, materials, and property of any kind, including loans and grants from the United States, the state, a unit of local government, or any agency, department, district or instrumentality of any of the foregoing, upon any terms and conditions as the United States, the state, a unit of local government, or any agency, department, district or instrumentality shall impose;

(v) Utility board may create, maintain and regulate reservoirs and promulgate and enforce rules and regulations for the creation and maintenance of reservoirs; and

(w) Make other recommendations to carry out the purposes of this act.

(2) This section shall repeal July 1, 2009.

SECTION 8. Creation of the George County Utility Authority. (1) There is hereby created and established a public body corporate and politic constituting a political subdivision of the State of Mississippi to be known as the "George County Utility Authority," unless the George County Board of Supervisors dissolves the authority by January 1, 2007, as provided in subsection (2). The authority will be composed of the geographic area of George County as defined in Section 19-1-39, Mississippi Code of 1972, for the planning, acquisition, construction, maintenance, operation and coordination of water, wastewater and storm water systems in order to ensure the delivery of water, wastewater and storm water services to citizens residing within the boundaries of George County. The George County Utility Authority shall be deemed to be acting in all respects for the benefit of the people of the state in the performance of essential public functions, and the George County Utility Authority shall be empowered in accordance with the provisions of this act to promote the health, welfare and prosperity of the general public.

(2) (a) The board of supervisors may dissolve the George County Utility Authority by a resolution duly adopted and entered on its minutes stating that the authority is dissolved, and certifying compliance with the requirements for dissolution. The board of supervisors shall file a certified copy of the resolution with the Secretary of State and the Public Service Commission. For the dissolution to be effective, the following requirements must be met, the resolution must be adopted by January 1, 2007, and the county authority must not have any outstanding indebtedness of any kind or character nor have received any funds for the construction or operation of water, wastewater or storm water projects under this act.

(b) This subsection shall repeal January 2, 2007.

(3) If the county authority is dissolved, the board of supervisors may reestablish the county authority by a resolution duly adopted and entered on its minutes stating the necessity for the county authority. The board shall file a certified copy of the resolution with the Secretary of State, the Public Service Commission and the utility board.

SECTION 9. Board of Directors for George County Utility Authority. (1) If the authority is created, all powers of the George County Utility Authority shall be exercised by a board of directors comprised of five (5) directors appointed as follows: Within thirty (30) days of creation of the authority, the Board of Supervisors of George County shall appoint three (3) residents from the county, and the Board of Aldermen of the City of Lucedale shall appoint two (2) residents from the city. The directors shall serve at the will and pleasure of the governing body making the appointments. Any vacancy arising by expiration of a director's term, or a vacancy created by the removal of a director for any other reason, shall be filled by appointment made by the party originally responsible for the appointment of the director vacating his or her appointment.

(2) All business of the George County Utility Authority shall be transacted as provided in Section 21, except that all actions affecting rates, bonds or capital improvements must be by unanimous vote of all members of the board.

(3) In addition to any other powers and rights conferred upon such board of directors, the board is granted and may exercise all powers and rights granted pursuant to Sections 20 through 37 of this act to promote the health, welfare and prosperity of the general public.

SECTION 10. Creation of the Pearl River County Utility Authority. There is hereby created and established a public body corporate and politic constituting a political subdivision of the State of Mississippi to be known as the "Pearl River County Utility Authority." The authority is composed of the geographic area of Pearl River County as defined in Section 19-1-109, Mississippi Code of 1972, for the planning, acquisition, construction, maintenance, operation and coordination of water, wastewater and storm water systems in order to ensure the delivery of water, wastewater and storm water services to citizens residing within the boundaries of Pearl River County. The Pearl River County Utility Authority shall be deemed to be acting in all respects for the benefit of the people of the state in the performance of essential public functions, and the Pearl River County Utility Authority shall be empowered in accordance with the provisions of this act to promote the health, welfare and prosperity of the general public.

SECTION 11. Board of Directors for Pearl River County Utility Authority. (1) All powers of the Pearl River County Utility Authority shall be exercised by a board of directors comprised of seven (7) directors appointed as follows: Within thirty (30) days of passage of this act, the Board of Supervisors of Pearl River County shall appoint four (4) residents from the county, and the Board of Aldermen of the City of Picayune shall appoint two (2) residents from the city, and the Board of Aldermen of the City of

Poplarville shall appoint one (1) resident from the city. The directors shall serve at the will and pleasure of the governing body making the appointments.

(2) In addition to any other powers and rights conferred upon such board of directors, the board is granted and may exercise all powers and rights granted pursuant to Sections 20 through 37 of this act to promote the health, welfare and prosperity of the general public.

SECTION 12. Creation of the Stone County Utility Authority. There is hereby created and established a public body corporate and politic constituting a political subdivision of the State of Mississippi to be known as the "Stone County Utility Authority." The authority is composed of the geographic area of Stone County as defined in Section 19-1-131, Mississippi Code of 1972, for the planning, acquisition, construction, maintenance, operation and coordination of water, wastewater and storm water systems in order to ensure the delivery of water, wastewater and storm water services to citizens residing within the boundaries of Stone County. The Stone County Utility Authority shall be deemed to be acting in all respects for the benefit of the people of the state in the performance of essential public functions, and the Stone County Utility Authority shall be empowered in accordance with the provisions of this act to promote the health, welfare and prosperity of the general public.

SECTION 13. Board of Directors for Stone County Utility Authority. (1) All powers of the Stone County Utility Authority shall be exercised by a board of directors comprised of five (5) directors appointed as follows: Within thirty (30) days of passage of this act, the Board of Supervisors of Stone County shall appoint three (3) residents from the county, and the Board of Aldermen of the City of Wiggins shall appoint two (2) residents from the city. The directors shall serve at the will and pleasure of the governing body making the appointments.

(2) In addition to any other powers and rights conferred upon such board of directors, the board is granted and may exercise all powers and rights granted pursuant to Sections 20 through 37 of this act to promote the health, welfare and prosperity of the general public.

SECTION 14. Creation of the Harrison County Utility Authority. (1) There is hereby created and established a public body corporate and politic constituting a political subdivision of the State of Mississippi to be known as the "Harrison County Utility Authority." The authority is composed of the geographic area of Harrison County as defined in Section 19-1-47, Mississippi Code of 1972, for the planning, acquisition, construction, maintenance, operation and coordination of water, wastewater, storm water and solid waste systems in order to ensure the delivery of water, wastewater, storm water and solid waste services to citizens residing within the boundaries of Harrison County.

(2) Within thirty (30) days of passage of this act, the Harrison County Utility Authority and the Harrison County Wastewater and Solid Waste Management District shall consolidate into a single agency, to be known as the Harrison County Utility

Authority, which shall be a continuance of the corporate existence of the Harrison County Wastewater and Solid Waste Management District. Such consolidation shall be effective by the concurrent resolution of the Harrison County Wastewater and Solid Waste Management District and the Harrison County Utility Authority and the filing of a copy of such concurrent resolution with the Secretary of State, certified by the Secretary of the Harrison County Wastewater and Solid Waste Management District and the Harrison County Utility Authority.

(3) Upon consolidation, the following shall apply:

(a) All property, rights and powers of the Harrison County Wastewater and Solid Waste Management District are hereby vested in and shall be exercised by the Harrison County Utility Authority, subject, however to all pledges, covenants, agreements and trusts made or created by the Harrison County Wastewater and Solid Waste Management District;

(b) All debts, liabilities, obligations, agreements, contracts and covenants of the Harrison County Wastewater and Solid Waste Management District are hereby imposed upon the Harrison County Utility Authority. Any property of the Harrison County Wastewater and Solid Waste Management District in which a mortgage or security interest has been granted to any bondholders or other creditors of the Harrison County Wastewater and Solid Waste Management District shall continue to be subject to the mortgage or security interest until the mortgage or security interest is defeased or terminated in accordance with its terms. All bondholders and other creditors of the Harrison County Wastewater and Solid Waste Management District and persons having claims against or contracts with the Harrison County Wastewater and Solid Waste Management District of any kind or character may enforce those debts, claims and contracts against the Harrison County Utility Authority in the same manner as they might have against the Harrison County Wastewater and Solid Waste Management District, and the rights and remedies of those bondholders, creditors, and persons having claims or contracts shall not be limited or restricted in any manner by this act;

(c) All regulations of the Harrison County Wastewater and Solid Waste Management District shall continue to be in effect as the regulations of the Harrison County Utility Authority until amended, supplemented or rescinded by the authority in accordance with law; and

(d) All employees of the Harrison County Wastewater and Solid Waste Management District shall become employees of the Harrison County Utility Authority. Nothing in this act shall affect the civil service status, if any, of those employees or their rights, privileges, obligations or status with respect to any pension or retirement system.

SECTION 15. Board of Directors for Harrison County Utility Authority. (1) All powers of the Harrison County Utility Authority shall be exercised by a consolidated board consisting of the Board of Directors of the Harrison County Wastewater and Solid Waste Management District and the additional director provided under this section for a

total of seven (7) directors. Upon consolidation, the Board of Supervisors of Harrison County shall appoint one (1) additional director who shall be a resident of the unincorporated area from the county. The director shall serve at the will and pleasure of the board of supervisors. The consolidated board shall consist of the mayor of each city participating in the authority and the directors appointed by the board of supervisors. Each director may appoint a delegate to represent him at a meeting of the board.

(2) All business of the Harrison County Utility Authority shall be transacted as provided in Section 21, except that all actions affecting rates, bonds or capital improvements must be by unanimous vote of all members of the board.

(3) In addition to any other powers and rights conferred upon such board of directors, the board is granted and may exercise all powers and rights granted pursuant to Sections 20 through 37 of this act to promote the health, welfare and prosperity of the general public, including the power and right to regulate and control solid waste within its jurisdictional boundaries.

SECTION 16. Creation of the Jackson County Utility Authority. (1) There is hereby created and established a public body corporate and politic constituting a political subdivision of the State of Mississippi to be known as the "Jackson County Utility Authority." The authority is composed of the geographic area of Jackson County as defined in Section 19-1-59, Mississippi Code of 1972, for the planning, acquisition, construction, maintenance, operation and coordination of water and wastewater systems in order to ensure the delivery of water and wastewater services to citizens residing within the boundaries of Jackson County.

(2) Within thirty (30) days of passage of this act, the Jackson County Utility Authority and the Mississippi Gulf Coast Regional Wastewater Authority shall consolidate into a single agency, to be known as the Jackson County Utility Authority, which shall be a continuance of the corporate existence of the Mississippi Gulf Coast Regional Wastewater Authority. Such consolidation shall be effective by the concurrent resolution of the Mississippi Gulf Coast Regional Wastewater Authority and the Jackson County Utility Authority and the filing of a copy of such concurrent resolution with the Secretary of State, certified by the Secretary of the Mississippi Gulf Coast Regional Wastewater Authority and the Jackson County Utility Authority.

(3) Upon consolidation the following shall apply:

(a) All property, rights and powers of the Mississippi Gulf Coast Regional Wastewater Authority are hereby vested in and shall be exercised by the Jackson County Utility Authority, subject, however to all pledges, covenants, agreements and trusts made or created by the Mississippi Gulf Coast Regional Wastewater Authority;

(b) All debts, liabilities, obligations, agreements, contracts and covenants of the Mississippi Gulf Coast Regional Wastewater Authority are hereby imposed upon the Jackson County Utility Authority. Any property of the Mississippi Gulf Coast Regional

Wastewater Authority in which a mortgage or security interest has been granted to any bondholders or other creditors of the Mississippi Gulf Coast Regional Wastewater Authority shall continue to be subject to the mortgage or security interest until the mortgage or security interest is defeased or terminated in accordance with its terms. All bondholders and other creditors of the Mississippi Gulf Coast Regional Wastewater Authority and persons having claims against or contracts with the Mississippi Gulf Coast Regional Wastewater Authority of any kind or character may enforce those debts, claims and contracts against the Jackson County Utility Authority in the same manner as they might have against the Mississippi Gulf Coast Regional Wastewater Authority, and the rights and remedies of those bondholders, creditors, and persons having claims or contracts shall not be limited or restricted in any manner by this act;

(c) All regulations of the Mississippi Gulf Coast Regional Wastewater Authority shall continue to be in effect as the regulations of the Jackson County Utility Authority until amended, supplemented or rescinded by the Jackson County Utility Authority in accordance with law; and

(d) All employees of the Mississippi Gulf Coast Regional Wastewater Authority shall become employees of the Jackson County Utility Authority. Nothing in this act shall affect the civil service status, if any, of those employees or their rights, privileges, obligations or status with respect to any pension or retirement system.

SECTION 17. Board of Directors for Jackson County Utility Authority. (1) Upon creation of the Jackson County Utility Authority, all powers of the Jackson County Utility Authority shall be exercised by the board of directors of the Mississippi Gulf Coast Regional Wastewater Authority.

(2) Upon consolidation of the Jackson County Utility Authority and the Mississippi Gulf Coast Wastewater Authority, the county authority shall be governed by a board consisting of seven (7) directors.

(a) The members of the Board of Directors of the Mississippi Gulf Coast Regional Wastewater Authority shall serve as Directors of the Jackson County Utility Authority until the expiration of their existing terms. Upon expiration of a member's term, the governing body making the appointment shall appoint a person residing within the corporate boundaries of the governing body to serve as a director.

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

(c) The Board of Supervisors of Jackson County shall appoint two (2) additional directors for an initial term of two (2) and four (4) years, respectively, who reside within the unincorporated area of Jackson County.

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

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

(4) In addition to any other powers and rights conferred upon such board of directors, the board is granted and may exercise all powers and rights granted pursuant to Sections 20 through 37 of this act to promote the health, welfare and prosperity of the general public.

SECTION 18. Creation of the Hancock County Utility Authority. (1) There is hereby created and established a public body corporate and politic constituting a political subdivision of the State of Mississippi to be known as the "Hancock County Utility Authority." The authority is composed of the geographic area of Hancock County as defined in Section 19-1-59, Mississippi Code of 1972, for the planning, acquisition, construction, maintenance, operation and coordination of water, wastewater and storm water systems in order to ensure the delivery of water, wastewater and storm water services to citizens residing within the boundaries of Hancock County.

(2) Within thirty (30) days of passage of this act, the Hancock County Utility Authority and the Southern Regional Wastewater Management District shall consolidate into a single agency, to be known as the Hancock County Utility Authority, which shall be a continuance of the corporate existence of the Southern Regional Wastewater Management District. Such consolidation shall be effective by the concurrent resolution of the Southern Regional Wastewater Management District and the Hancock County Utility Authority and the filing of a copy of such concurrent resolution with the Secretary of State, certified by the Secretary of the Southern Regional Wastewater Management District and the Hancock County Utility Authority.

(3) Upon consolidation, the following shall apply:

(a) All property, rights and powers of the Southern Regional Wastewater Management District are hereby vested in and shall be exercised by the Hancock County Utility Authority, subject, however to all pledges, covenants, agreements and trusts made or created by the Southern Regional Wastewater Management District;

(b) All debts, liabilities, obligations, agreements, contracts and covenants of the Southern Regional Wastewater Management District are hereby imposed upon the Hancock County Utility Authority. Any property of the Southern Regional Wastewater Management District in which a mortgage or security interest has been granted to any bondholders or other creditors of the Southern Regional Wastewater Management District shall continue to be subject to the mortgage or security interest until the mortgage or security interest is defeased or terminated in accordance with its terms. All bondholders and other creditors of the Southern Regional Wastewater Management District and persons having claims against or contracts with the Southern Regional Wastewater Management District of any kind or character may enforce those debts, claims and contracts against the authority in the same manner as they might have against the Southern Regional Wastewater Management District, and the rights and remedies of

those bondholders, creditors, and persons having claims or contracts shall not be limited or restricted in any manner by this act;

(c) All regulations of the Southern Regional Wastewater Management District shall continue to be in effect as the regulations of the Hancock County Utility Authority until amended, supplemented or rescinded by the Hancock County Utility Authority in accordance with law; and

(d) All employees of the Southern Regional Wastewater Management District shall become employees of the authority. Nothing in this act shall affect the civil service status, if any, of those employees or their rights, privileges, obligations or status with respect to any pension or retirement system.

SECTION 19. Board of Directors for Hancock County Utility Authority. (1) After consolidation, all powers of the Hancock County Utility Authority shall be exercised by a board consisting of the following:

(a) One (1) director appointed by the Mayor of Bay St. Louis for an initial term of two (2) years;

(b) One (1) director appointed by the Mayor of Waveland for an initial term of three (3) years;

(c) One (1) director appointed by the Board of Supervisors who is a resident of Hancock County from an area that is not served by the utility districts enumerated in this subsection for an initial term of four (4) years;

(d) One (1) director who is the Chairman of the Diamondhead Water and Sewer District;

(e) One (1) director who is the Chairman of the Kiln Fire and Water District;

(f) One (1) director who is the Chairman of the Hancock County Water and Sewer District; and

(g) One (1) director who is the Chairman of the Pearlington Water and Sewer District.

After expiration of the initial terms, the appointees in paragraphs (a), (b) and (c) shall be appointed to a term of four (4) years.

(2) In addition to any other powers and rights conferred upon such board of directors, the board is granted and may exercise all powers and rights granted pursuant to Sections 20 through 37 of this act to promote the health, welfare and prosperity of the general public.

SECTION 20. Provisions common to the county authorities. The purpose of Sections 20 through 37 of this act is to confer certain powers on the county authorities for the purpose of cooperating with federal, state and local public agencies for the further development of local and regional water, wastewater and storm water services within the Gulf Coast Region. In addition to the powers over water, wastewater and storm water, the Harrison County Utility Authority is granted power over solid waste within its jurisdiction.

SECTION 21. Board of directors, officers, compensation. (1) The board of directors of a county authority shall elect annually from its number a president and vice president of the county authority and such other officers as in the judgment of the board are necessary. The president shall be the chief executive officer of the authority and the presiding officer of the board, and shall have the same right to vote as any other director. The vice president shall act in the absence or disability of the president. Each board also shall appoint a secretary and a treasurer who may or may not be members of the board, and it may combine these offices. The treasurer shall give bond in the sum of not less than One Hundred Thousand Dollars (\$100,000.00) as set by the board of directors, and each director may be required to give bond in the sum of not less than Twenty-five Thousand Dollars (\$25,000.00), with sureties qualified to do business in this state, and the premiums on the bonds shall be an expense of the authority. Each bond shall be payable to the State of Mississippi, and the condition of each bond shall be that the treasurer and director will faithfully perform all duties of his office and account for all money and other assets which shall come into his custody as treasurer or director of the authority.

(2) Each director of a county authority shall serve without salary, but shall be entitled to receive per diem pay as provided for in Section 25-3-69 and shall be reimbursed his actual necessary expenses, as provided in Section 25-3-41, incurred while in the performance of his duties as a member of the board of directors of the authority upon authorization by the board. Expenses shall be paid from available funds of the authority.

(3) All business of a county authority shall be transacted by a majority vote of the total membership of the board of directors. The quorum for any meeting of the board of directors shall be a majority of the total membership of the board of directors.

SECTION 22. Powers of the county authorities. From and after the passage of this act, each and every county authority shall have, in addition to any other powers granted under any other provision of law, including, but not limited to, the following:

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

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

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

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

(e) To enter into contracts with any person or any public agency, including, but not limited to, contracts authorized by this act, in furtherance of any of the purposes authorized under this act upon such consideration as the board of directors and such person may agree. Any such contract may extend over any period of time, notwithstanding any provision or rule of law to the contrary; may be upon such terms and for such consideration, nominal or otherwise, as the parties thereto shall agree; and may provide that it shall continue in effect until bonds specified therein, refunding bonds issued in lieu of such bonds, and all other obligations specified therein are paid or terminated. Any such contract shall be binding upon the parties thereto according to its terms;

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

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

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

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

(j) To require the necessary relocation or rerouting of roads and highways, railroad, telephone and telegraph lines, and properties, electric power lines, gas pipelines and related facilities, or to require the anchoring or other protection of any of these, provided fair compensation is first paid to the owners or an agreement with such owners regarding the payment of the cost of such relocation, and to acquire easements or rights-

of-way for such relocation or rerouting and to convey the same to the owners of the property being relocated or rerouted in connection with the purposes of this act;

(k) To acquire, construct, improve or modify, to operate or cause to be operated and maintained, either as owner of all or of any part in common with others, any water, wastewater or storm water system within the county authority's service area. The county authority may pay all or part of the cost of any system from any contribution by persons, firms, public agencies or corporations. The county authority may receive, accept and use all funds, public or private, and pay all costs of the development, implementation and maintenance as may be determined as necessary for any project;

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

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

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

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

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

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

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

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

(t) To enter on public or private lands, waters or premises for the purpose of making surveys, borings or soundings, or conducting tests, examinations or inspections for the purposes of the authority, subject to responsibility for any damage done to property entered;

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

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

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

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

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

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

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

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

SECTION 23. Promulgation of rules and regulations relating to construction, operation and maintenance of any water, wastewater and storm water systems within each county authority's service area. (1) The county authority shall have the power, duty and responsibility to exercise general supervision over the design, construction, operation and maintenance of water, wastewater and storm water systems.

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

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

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

(5) (a) Before a building or development which requires the installation of a water, wastewater or storm water system is constructed, the system must be submitted to the

county authority for certification that the system complies with the county authority requirements for such system.

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

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

(7) Notwithstanding the provisions of Section 51-39-1 et seq., the county authority shall have the full power to adopt rules and regulations and to construct, maintain and operate facilities for the control of storm water quality and quantity. In addition, the provisions of Section 51-33-1 et seq. relating to drainage districts and flood control districts do not apply to the county authority.

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

SECTION 24. Contracts between public agencies or persons and the county authority for provision of water, wastewater and storm water services by the county authority; payment for services and contributions by public agencies. (1) Any public agency or person, pursuant to a duly adopted resolution of the governing body of such public agency or person, may enter into contracts with the county authority or county authorities under the terms of which the county authority will manage, operate and contract for usage of its systems and facilities, or other services, for such person or public agency.

(2) Any public agency or person may enter into contracts with the county authority for the county authority to purchase or sell, by installments over such terms as may be deemed desirable, or otherwise, to any person or any systems. Any public agency may sell, donate, convey, or otherwise dispose of water, wastewater and storm water facilities or systems; or any equipment, personal property or any other things, deemed necessary for the construction, operation, and maintenance to the county authority without the necessity of appraisal, advertising, or bidding. This section creates an alternative method of disposal of public property.

(3) Any public agency is authorized to enter into operating agreements with the county authority, for such terms and upon such conditions as may be deemed desirable, for the operation of any of its systems of any person by the county authority or by any person contracting with the county authority to operate such systems.

(4) Any public agency may lease to or from the county authority, for such term and upon such conditions as may be deemed desirable, any of its systems.

(5) Any municipality or county may donate office space, equipment, supplies, and materials to the authority.

(6) Any such contract may contain provisions requiring any public agency or other person to regulate the quality and strength of the material to be handled by the wastewater or storm water systems and may also provide that the county authority shall have the right to use any streets, alleys and public ways and places within the jurisdiction of a public agency or other person during the term of the contract. Such contracts may obligate the public agency to make payments to the county authority or to a trustee in amounts which shall be sufficient to enable the county authority to defray the expenses of administering, operating and maintaining its respective systems, to pay interest and principal (whether at maturity upon redemption or otherwise) on bonds of the county authority, issued under this act and to fund reserves for debt service, for operation and maintenance and for renewals and replacements, to fulfill the requirements of any rate covenant with respect to debt service coverage contained in any resolution, trust indenture or other security agreement relating to the bonds of the county authority issued under this act or to fulfill any other requirement relating to bonds issued pursuant to this act.

(7) Any public agency shall have the power to enter into such contracts with the county authority as in the discretion of the governing body of the public agency would be in the best interest of the public agency. Such contracts may include a pledge of the full faith and credit of such public agency and/or the avails of any special assessments made by such public agency against property receiving benefits, as now or hereafter are provided by law. Any such contract may provide for the sale, or lease to, or use of by the county authority, of the systems or any part thereof, of the public agency; and may provide that the county authority shall operate its systems or any part thereof of the public agency; and may provide that any public agency shall have the right to continued use and/or priority use of the systems or any part thereof during the useful life thereof upon payment of reasonable charges therefor; and may contain provisions to assure equitable treatment of persons or public agencies who contract with the county authority under this act; and may contain such other provisions and requirements as the parties thereto may determine to be appropriate or necessary. Such contracts may extend over any period of time, notwithstanding any provisions of law to the contrary, and may extend beyond the life of the respective systems or any part thereof or the term of the bonds sold with respect to such facilities or improvements thereto.

(8) The obligations of a public agency arising under the terms of any contract referred to in this act, whether or not payable solely from a pledge of revenues, shall not be included within the indebtedness limitations of the public agency for purposes of any constitutional or statutory limitation or provision. To the extent provided in such contract and to the extent such obligations of the public agency are payable wholly or in part from the revenues and other monies derived by the public agency from the operation of its

systems or of its combined systems, or any part thereof, such obligations shall be treated as expenses of operating such systems.

(9) Contracts referred to in this section may also provide for payments in the form of contributions to defray the cost of any purpose set forth in the contracts and as advances for the respective systems or any part thereof subject to repayment by the county authority. A public agency may make such contributions or advances from its general fund or surplus fund or from special assessments or from any monies legally available therefor.

(10) Payments made, or to be made, to the county authority by a public agency or other person under a contract for any of its treatment systems, or any part thereof, shall not be subject to approval or review by the Mississippi Public Service Commission.

(11) Subject to the terms of a contract or contracts referred to in this act, the county authority is hereby authorized to do and perform any and all acts or things necessary, convenient or desirable to carry out the purposes of such contracts, including the fixing, charging, collecting, maintaining and revising of rates, fees and other charges for the services rendered to any user of any of the systems operated or maintained by the county authority, whether or not such systems are owned by the county authority.

(12) No provision of this act shall be construed to prohibit any public agency, otherwise permitted by law to issue bonds, from issuing bonds in the manner provided by law for the construction, renovation, repair or development of any of the county authority's systems, or any part thereof, owned or operated by such public agency.

SECTION 25. Rates, fees and other charges by public agencies for services provided by county authority. Whenever a public agency shall have executed a contract under this act and the payments thereunder are to be made either wholly or partly from the revenues of the public agency's systems, or any part thereof, or a combination of such systems, the duty is hereby imposed on the public agency to establish and maintain and from time to time to adjust the rate or fees charged by the public agency for the services of such systems, so that the revenues therefrom, together with any taxes and special assessments levied in support thereof, will be sufficient at all times to pay:

(a) The expense of operating and maintaining such systems, including all of the public agency's obligations to the county authority, its successors or assigns under such contract; and

(b) All of the public agency's obligations under and in connection with bonds theretofore issued, or which may be issued thereafter and secured by the revenues of such systems. Any such contract may require the use of consulting engineers and financial experts to advise the public agency whether and when such rates and fees are to be adjusted.

SECTION 26. Public Service Commission notice. (1) Notwithstanding the provisions of Sections 77-3-21 and 77-3-23, Mississippi Code of 1972, the certificate of public convenience and necessity held by any municipality, public agency, district, public utility or other person authorized by law to provide water, sewer and wastewater services may be cancelled and its powers, duties and responsibilities transferred to the county authority in the manner provided by this section.

(2) Any entity described in subsection (1) of this section desiring to have its certificate of public convenience and necessity cancelled and its powers, duties and responsibilities transferred to the county authority shall make a determination to that effect on its official minutes if a public entity, or by affidavit if not a public entity, and transmit such determination to the county authority.

(3) Upon receipt of the document evidencing such determination from an entity to transfer its powers, duties and responsibilities to the county authority, the county authority shall, by resolution, declare whether it is willing and able to accept such transfer from the entity.

(4) Upon completion of the requirements of subsections (2) and (3) herein and agreement by both parties to the transfer, the holder of the certificate of public convenience and necessity and the county authority shall jointly petition the Public Service Commission to cancel the certificate of public convenience and necessity. The petition must be accompanied by copies of the official minutes, affidavit or resolution, as the case may be, reflecting the actions of the petitioners. After review of the petition and any other evidence as the Public Service Commission deems necessary, the commission may issue an order canceling the certificate and transferring to the county authority the powers, duties and responsibilities granted by the certificate, including all assets and debts of the transferor petitioner related to such certificated services, real or personal, or both, if it finds that:

- (a) Subsections (2) and (3) of this section have been complied with; and
- (b) Such action is in the public interest.

(5) The county authority and providers of water, sewer, wastewater and storm water services that are not holders of a certificate of a public convenience and necessity from the Public Service Commission may enter into agreements for the provision of such services, including, but not limited to, the transfer to the county authority of such provider's powers, duties, responsibilities, assets and debts.

SECTION 27. Validation of prior indebtedness. (1) Any system of a municipality, public agency or person that becomes subject to the jurisdiction of a county authority and this act shall not impair, invalidate or abrogate any liens, bonds or other certificates of indebtedness related to water, storm water or wastewater facilities and systems incurred prior to becoming subject to the jurisdiction of the county authority.

(2) The county authority may do and perform any and all acts necessary, convenient or desirable to ensure the payment, redemption or satisfaction of such liens, bonds or other certificates of indebtedness.

SECTION 28. The power to borrow money and to issue revenue bonds. (1)

Sections 27 through 36 of this act apply to all bonds to be issued after the effective date of this act and such provisions shall not affect, limit or alter the rights and powers of any county authority under this act or any law of Mississippi to conduct the activities referred to herein in any way pertinent to the interests of the bondholders, including, without limitation, such county authority's right to charge and collect rates, fees and charges and to fulfill the terms of any covenants made with the registered owners of any existing bonds, or in any other way impair the rights and remedies of the registered owners of any existing bonds, unless provision for full payment of such bonds, by escrow or otherwise, has been made pursuant to the terms of the bonds or the resolution, trust indenture or security interest securing the bonds.

(2) The county authority shall have the power and is hereby authorized, from time to time, to borrow money and to issue revenue bonds and interim notes in such principal amounts as the county authority may determine to be necessary to provide sufficient funds for achieving one or more of the purposes of this act, including, without limiting the generality of the foregoing, to defray all the costs of the project, the cost of the acquisition, construction, improvement, repair or extension of a system, or any part thereof, whether or not such facilities are owned by the county authority, the payment of interest on bonds of the county authority issued pursuant to this act, establishment of reserves to secure such bonds and payment of the interest thereon, expenses incident to the issuance of such bonds and to the implementation of the county authority's system, and all other expenditures of the county authority incident to or necessary or convenient to carry out the purposes of this act.

(3) Before issuing bonds, other than interim notes or refunding bonds as provided in Section 29, the board of directors of the county authority shall adopt a resolution declaring its intention to issue such bonds and stating the maximum principal amount of bonds proposed to be issued, a general generic description of the proposed improvements and the proposed location thereof and the date, time and place at which the board of directors proposes to take further action with respect to the issuance of such bonds. The resolution of the county authority shall be published once a week for at least three (3) consecutive weeks in at least one (1) newspaper having a general circulation within the geographical limits of all of the public agencies which have contracted with the county authority pursuant to this act.

(4) Bonds of the county authority issued pursuant to this act shall be payable from and secured by a pledge of all or any part of the revenues under one or more contracts entered into pursuant to this act between the county authority and one or more of its contracting public agencies and from all or any part of the revenues derived from the operation of any designated system or any part or parts thereof and any other monies legally available and designated therefor, as may be determined by such county authority,

subject only to any agreement with the purchasers of the bonds. Such bonds may be further secured by a trust indenture between such county authority and a corporate trustee, which may be any trust company or bank having powers of a trust company without or within the state.

(5) Bonds of the county authority issued pursuant to this act shall be authorized by a resolution or resolutions adopted by a majority affirmative vote of the total membership of the board of directors of the county authority. Such bonds may be issued in series, and each series of such bonds shall bear such date or dates, mature at such time or times, bear interest at such rate or rates (not exceeding the maximum rate set out in Section 75-17-103, Mississippi Code of 1972), be in such denomination or denominations, be in such form, carry such conversion privileges, have such rank or priority, be executed in such manner and by such officers, be payable from such sources in such medium of payment at such place or places within or without the state, provided that one such place shall be within the state, and be subject to such terms of redemption prior to maturity, all as may be provided by resolution or resolutions of the board of directors. The term of such bonds issued pursuant to this act shall not exceed forty (40) years.

(6) Bonds of the county authority issued pursuant to this act may be sold at such price or prices, at public or private sale, in such manner and at such times as may be determined by such county authority to be in the public interest, and such county authority may pay all expenses, premiums, fees and commissions which it may deem necessary and advantageous in connection with the issuance and sale thereof.

(7) Any pledge of earnings, revenues or other monies made by the county authority shall be valid and binding from the time the pledge is made. The earnings, revenues or other monies so pledged and thereafter received by such county authority shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act, and the lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against such county authority irrespective of whether such parties have notice thereof. Neither the resolution nor any other instrument by which a pledge is created need be recorded.

(8) Neither the members of the board of directors nor any person executing the bonds shall be personally liable on the bonds or be subject to any personal liability or accountability by reason of the issuance thereof.

(9) Proceeds from the sale of bonds of the county authority may be invested, pending their use, in such securities as may be specified in the resolution authorizing the issuance of the bonds or the trust indenture securing them, and the earnings on such investments applied as provided in such resolution or trust indenture.

(10) Whenever any bonds shall have been signed by the officer(s) designated by the resolution of the board of directors to sign the bonds who were in office at the time of such signing but who may have ceased to be such officer(s) prior to the sale and delivery of such bonds, or who may not have been in office on the date such bonds may bear, the

manual or facsimile signatures of such officer(s) upon such bonds shall nevertheless be valid and sufficient for all purposes and have the same effect as if the person so officially executing such bonds had remained in office until the delivery of the same to the purchaser or had been in office on the date such bonds may bear.

(11) The county authority has the discretion to advance or borrow funds needed to satisfy any short-term cash flow demands or deficiencies or to cover start-up costs until such time as sufficient bonds, assets and revenues have been secured to satisfy the needs of the county authority.

SECTION 29. Bonds of county authority. (1) **Refunding bonds.** The county authority may, by resolution adopted by its board of directors, issue refunding bonds for the purpose of paying any of its bonds at or prior to maturity or upon acceleration or redemption. Refunding bonds may be issued at such time prior to the maturity or redemption of the refunded bonds as the board of directors deems to be in the public interest, without an election on the question of the issuance thereof. The refunding bonds may be issued in sufficient amounts to pay or provide the principal of the bonds being refunded, together with any redemption premium thereon, any interest accrued or to accrue to the date of payment of such bonds, the expenses of issue of the refunding bonds, the expenses of redeeming the bonds being refunded, and such reserves for debt service or other capital or current expenses from the proceeds of such refunding bonds as may be required by the resolution, trust indenture or other security instruments. The issue of refunding bonds, the maturities and other details thereof, the security therefor, the rights of the holders and the rights, duties and obligations of the county authority in respect of the same shall be governed by the provisions of this act relating to the issue of bonds other than refunding bonds insofar as the same may be applicable. Any such refunding may be effected, whether the obligations to be refunded shall have then matured or shall thereafter mature, either by the exchange of the refunding bonds for the obligations to be refunded thereby with the consent of the holders of the obligations so to be refunded, or by sale of the refunding bonds and the application of the proceeds thereof to the payment of the obligations proposed to be refunded thereby, and regardless of whether the obligations proposed to be refunded shall be payable on the same date or different dates or shall be due serially or otherwise.

(2) **Interim notes.** Borrowing by the county authority may be made by the delivery of interim notes to any person or public agency or financial institution by a majority vote of the board of directors.

SECTION 30. All bonds (other than refunding bonds, interim notes and certificates of indebtedness, which may be validated) issued pursuant to this act shall be validated as now provided by law in Sections 31-13-1 through 31-13-11, Mississippi Code of 1972; however, notice of such validation proceedings shall be addressed to the citizens of the respective public agencies (a) which have contracted with the county authority pursuant to this act, and (b) whose contracts and the payments to be made by the public agencies thereunder constitute security for the bonds of such county authority proposed to be issued, and that such notice shall be published at least once in a newspaper or newspapers

having a general circulation within the geographical boundaries of each of the contracting public agencies to whose citizens the notice is addressed. Such validation proceedings shall be instituted in any chancery courts within the boundaries of the county authority. The validity of the bonds so validated and of the contracts and payments to be made by the public agencies thereunder constituting security for the bonds shall be forever conclusive against the county authority and the public agencies which are parties to said contracts; and the validity of said bonds and said contracts and the payments to be made thereunder shall never be called in question in any court in this state.

SECTION 31. Bonds issued under the provisions of this act shall not be deemed to constitute, within the meaning of any constitutional or statutory limitation, an indebtedness of the county authority. Such bonds shall be payable solely from the revenues or assets of the county authority pledged therefor. Each bond issued under this act shall contain on the face thereof a statement to the effect that such county authority shall not be obligated to pay the same nor the interest thereon except from the revenues or assets pledged therefor.

SECTION 32. The county authority shall have power in connection with the issuance of its bonds pursuant to this act to:

- (a) Covenant as to the use of any or all of its property, real or personal;
- (b) Redeem the bonds, to covenant for their redemption and to provide the terms and conditions thereof;
- (c) Covenant to charge rates, fees and charges sufficient to meet operating and maintenance expenses, renewals and replacements, principal and debt service on bonds, creation and maintenance of any reserves required by a bonds resolution, trust indenture or other security instrument and to provide for any margins or coverages over and above debt service on the bonds deemed desirable for the marketability of the bonds;
- (d) Covenant and prescribe as to events of default and terms and conditions upon which any or all of its bonds shall become or may be declared due before maturity, as to the terms and conditions upon which such declaration and its consequences may be waived and as to the consequences of default and the remedies of the registered owners of the bonds;
- (e) Covenant as to the mortgage or pledge of or the grant of a security interest in any real or personal property and all or any part of the revenues from any designated system or any part thereof or any revenue-producing contract or contracts made by a county authority with any person to secure the payment of bonds, subject to such agreements with the registered owners of bonds as may then exist;
- (f) Covenant as to the custody, collection, securing, investment and payment of any revenues, assets, monies, funds or property with respect to which a county authority may have any rights or interest;

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

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

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

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

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

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

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

(n) Make all other covenants and to do any and all such acts and things as may be necessary or convenient or desirable in order to secure its bonds, or in the absolute discretion of the county authority tend to make the bonds more marketable, notwithstanding that such covenants, acts or things may not be enumerated herein; it being the intention hereof to give any county authority power to do all things in the issuance of bonds and in the provisions for security thereof which are not inconsistent with the Constitution of the state; and

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

SECTION 33. The county authority may, in any authorizing resolution of the board of directors, trust indenture or other security instrument relating to its bonds issued pursuant to this act, provide for the appointment of a trustee who shall have such powers as are provided therein to represent the registered owners of any issue of bonds in the enforcement or protection of their rights under any such resolution, trust indenture or security instrument. The county authority may also provide in such resolution, trust

indenture or other security instrument that the trustee, or in the event that the trustee so appointed shall fail or decline to so protect and enforce such registered owners' rights then such percentage of registered owners as shall be set forth in, and subject to the provisions of, such resolution, trust indenture or other security interest, may petition the court of proper jurisdiction for the appointment of a receiver of the county authority's systems, the revenues of which are pledged to the payment of the principal of and interest on the bonds of such registered owners. Such receiver may exercise any power as may be granted in any such resolution, trust indenture or security instrument to enter upon and take possession of, acquire, construct or reconstruct or operate and maintain such system, fix charges for services of the system and enforce collection thereof, and receive all revenues derived from such system or facilities and perform the public duties and carry out the contracts and obligations of such county authority in the same manner as such county authority itself might do, all under the direction of such court.

SECTION 34. (1) The exercise of the powers granted by this act will be in all respects for the benefit of the people of the state, for their well-being and prosperity and for the improvement of their social and economic conditions, and the county authority shall not be required to pay any tax or assessment on any property owned by the county authority under the provisions of this act or upon the income therefrom; nor shall the county authority be required to pay any recording fee or transfer tax of any kind on account of instruments recorded by it or on its behalf.

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

SECTION 35. All bonds issued under the provisions of this act shall be legal investments for trustees, other fiduciaries, savings banks, trust companies and insurance companies organized under the laws of the State of Mississippi; and such bonds shall be legal securities which may be deposited with and shall be received by all public officers and bodies of the state and all municipalities and other political subdivisions thereof for the purpose of securing the deposit of public funds.

SECTION 36. The state hereby covenants with the registered owners of any bonds of any county authority that so long as the bonds are outstanding and unpaid the state will not limit or alter the rights and powers of any county authority under this act to conduct the activities referred to herein in any way pertinent to the interests of the bondholders, including, without limitation, such county authority's right to charge and collect rates, fees, assessments and charges and to fulfill the terms of any covenants made with the registered owners of the bonds, or in any other way impair the rights and remedies of the registered owners of the bonds, unless provision for full payment of such bonds, by escrow or otherwise, has been made pursuant to the terms of the bonds or the resolution, trust indenture or security interest securing the bonds.

SECTION 37. For the purposes of satisfying any temporary cash flow demands and deficiencies, and to maintain a working balance for the county authority, the county, municipalities or public agencies within the geographic boundaries of the county authority, or other persons, subject to their lawful authority to do so, are authorized to advance, at any time, such funds which, in its discretion, are necessary, or borrow such funds by issuance of notes, for initial capital contribution and to cover start-up costs until such times as sufficient bonds, assets and revenues have been secured to satisfy the needs of the county authority for its management, operation and formation. To this end, the county, municipality, public agency or person, subject to their lawful authority to do so, shall advance such funds, or borrow such funds by issuance of notes, under such terms and conditions as may be provided by resolution of the governing body, or other persons as defined in this act, subject to their lawful authority to do so, except that each such resolution shall state:

- (a) The need for the proceeds advanced or borrowed;
- (b) The amount to be advanced or the amount to be borrowed;
- (c) The maximum principal amount of any note issued the interest rate or maximum interest rate to be incurred, and the maturity date of said note;
- (d) In addition, the governing body, or other persons as defined in this act, subject to their lawful authority to do so, may arrange for lines of credit with any bank, firm or person for the purpose of providing an additional source of repayment for notes issued pursuant to this section. Amounts drawn on a line of credit may be evidenced by negotiable or nonnegotiable notes or other evidences of indebtedness and contain such terms and conditions as the governing body, or other persons as defined in this act, subject to their lawful authority to do so, may authorize in the resolution approving the same;
- (e) The governing body of the county, municipalities or other persons as defined in this act, subject to their lawful authority to do so, may authorize the repayment of such advances, notes, lines of credit and other debt incurred under this section, along with all costs associated with the same, including, but not limited to, rating agency fees, printing costs, legal fees, bank or trust company fees, line of credit fees and other charges to be reimbursed by the county authority under such terms and conditions as are reasonable and are to be provided for by resolution of the governing body, or terms agreed upon with other persons as defined in this act, subject to their lawful authority to do so;
- (f) In addition, the governing body of the county, municipality or public agency may lease or donate office space and equipment to the county authority under such terms and conditions as are reasonable and are to be provided for by resolution of the governing body, or terms agreed upon by the county authority.

SECTION 38. If any clause, sentence, paragraph, section or part of the provisions of this act shall be adjudged by any court of competent jurisdiction to be invalid, such

judgment shall not affect, impair or invalidate the remainder thereof directly involved in the controversy in which such judgment shall have been rendered.

SECTION 39. Sections 49-17-161, 49-17-162, 49-17-163, 49-17-165, 49-17-167, 49-17-169, 49-17-171, 49-17-173, 49-17-175, 49-17-177, 49-17-179, 49-17-181, 49-17-183, 49-17-185, 49-17-187, 49-17-189, 49-17-191, 49-17-193, 49-17-195, 49-17-197, 49-17-199, 49-17-201, 49-17-203, 49-17-205, 49-17-207 and 49-17-209, Mississippi Code of 1972, cited as the "Southern Regional Wastewater Management Act," which create and empower the Southern Regional Wastewater Management District, shall repeal on July 1, 2007.

SECTION 40. Sections 49-17-301, 49-17-303, 49-17-305, 49-17-307, 49-17-309, 49-17-311, 49-17-313, 49-17-315, 49-17-317, 49-17-319, 49-17-321, 49-17-323, 49-17-325, 49-17-327, 49-17-329, 49-17-331, 49-17-333, 49-17-335, 49-17-337, 49-17-339, 49-17-341, 49-17-343, 49-17-345, 49-17-347, 49-17-349, 49-17-351 and 49-17-353, Mississippi Code of 1972, cited as the "Mississippi Gulf Coast Regional Wastewater Authority Act," which create and empower the Mississippi Gulf Coast Regional Wastewater Authority, shall repeal on July 1, 2007.

SECTION 41. This act shall take effect and be in force from and after its passage