

Title 49. Conservation and Ecology
Chapter 17. Pollution of Waters, Streams, and Air
Mississippi Gulf Coast Region Utility Act

§ 49-17-701. Title

Sections 49-17-701 through 49-17-775 shall be known and may be cited as the “Mississippi Gulf Coast Region Utility Act.”

§ 49-17-703. 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.

§ 49-17-705. 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.

§ 49-17-707. 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, 2011.

§ 49-17-709. 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, 2011.

§ 49-17-711. 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.

(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, 2011.

§ 49-17-713. 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, 2011.

§ 49-17-715. 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) [Repealed]

(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.

§ 49-17-717. 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 49-17-741, 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 49-17-739 through 49-17-773 to promote the health, welfare and prosperity of the general public.

§ 49-17-719. 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.

§ 49-17-721. 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 49-17-739 through 49-17-773 to promote the health, welfare and prosperity of the general public.

§ 49-17-723. 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.

§ 49-17-725. 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 49-17-739 through 49-17-773 to promote the health, welfare and prosperity of the general public.

§ 49-17-727. 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.

§ 49-17-729. 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 49-17-741, 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 49-17-739 through 49-17-773 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.

§ 49-17-731. 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.

§ 49-17-733. 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 49-17-739 through 49-17-773 to promote the health, welfare and prosperity of the general public.

§ 49-17-735. 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.

§ 49-17-737. 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 who is the Mayor of Bay St. Louis, or his or her designee, for an initial term of two (2) years;

(b) One (1) director who is the Mayor of Waveland, or his or her designee, for an initial term of three (3) years;

(c) One (1) director who is the president of the board of supervisors of Hancock County, or his or her designee, 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 Pearlinton Water and Sewer District.

After expiration of the initial terms, the directors in paragraphs (a), (b) and (c) shall serve 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 49-17-739 through 49-17-773 to promote the health, welfare and prosperity of the general public.

(3) Any designee serving as a director shall serve at the will and pleasure of the governing authority that designated the director.

§ 49-17-739. Provisions common to the county authorities

The purpose of Sections 49-17-739 through 49-17-773 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.

§ 49-17-741. 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.

§ 49-17-743. 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

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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;

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(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;~~

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(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;

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(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;

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(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;

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(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;

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(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

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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.

§ 49-17-745. 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

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(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.

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(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 contracts with a county authority, shall be subject to the terms of that contract 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.

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§ 49-17-747. 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.

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(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.

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(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.**

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(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.

§ 49-17-749. 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.

§ 49-17-751. 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.

§ 49-17-753. 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.

§ 49-17-755. Power to borrow money and to issue revenue bonds

(1) Sections 49-17-753 through 49-17-771 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.

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(3) Before issuing bonds, other than interim notes or refunding bonds as provided in Section 49-17-757, 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.**

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(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.

§ 49-17-757. 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.

§ 49-17-759. Validation of bonds

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.

§ 49-17-761. Payment of bonds

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.

§ 49-17-763. County authority powers relating to bonds

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.

§ 49-17-765. Trustees and receivers

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.

§ 49-17-767. Purpose of bonds; tax exemption

(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.

§ 49-17-769. Legal investments

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.

§ 49-17-771. Continuing powers of authorities

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.

§ 49-17-773. Borrowing authority

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.

§ 49-17-775. Severability

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.

Title 51. Waters, Water Resources, Water Districts, Drainage, and Flood Control
Public Water Authorities

§ 51-41-1. Legislative intent

It is the intent of the Legislature to provide a means, in addition to the incorporation of districts authorized in Sections 19-5-151 through 19-5-207, by which not-for-profit corporations or associations involved in the sale, transmission and distribution of potable water to members of the public and others may convert their entity status from that of a body corporate to that of a body politic, thereby allowing those entities the opportunity to access the tax-exempt capital markets and thereby assuring the State of Mississippi and the customers of those entities of adequate supplies of water at the lowest water rates possible.

§ 51-41-3. Definitions

As used in this chapter, unless the context otherwise requires:

- (a) "Board" means the board of directors of the water authority;
- (b) "Bond" means any bond, promissory note, lease purchase agreement or other evidence of indebtedness of any nature along with all debt securing instruments of every nature related thereto;
- (c) "Indenture" means a mortgage, an indenture of mortgage, deed of trust, trust agreement, loan agreement, security agreement or trust indenture executed by the water authority as security for any bonds;
- (d) "Project" means any raw or potable water or wastewater intake, treatment, distribution, transmission, storage, pumping, well site, well field or other facility or system, or any combination of the foregoing, that has as its purpose the providing of raw or potable water to members of the public and commercial, industrial or other users or the treatment of wastewater, along with any and all other appurtenances, equipment, betterments or improvements related thereto. The above projects may include any lands, or interest in any lands, deemed by the board to be desirable in connection with the projects, and necessary equipment for the proper functioning and operation of the buildings or facilities involved;
- (e) "Qualified corporation" means any not-for-profit corporation or association that provides, distributes, transmits, treats, pumps or stores raw or potable water to or for the benefit of members of the general public and commercial, industrial and other users;
- (f) "United States" means the United States of America or any of its agencies or instrumentalities;
- (g) "State" means the State of Mississippi; and
- (h) "Water authority" means that body politic and governmental entity organized under the provisions of this chapter.

§ 51-41-5. Construction

This chapter shall be liberally construed in conformity with its intent. All acts and activities of the water authority performed under the authority of this act are legislatively determined and declared to be essential governmental functions.

§ 51-41-7. Authority generally

There is conferred upon a water authority, the authority to take such action and to do, or cause to be done, such

things as are necessary or desirable to accomplish and implement the purposes and intent of this chapter according to the import of this chapter.

§ 51-4-8. Protection of certificated area

A municipality or other entity shall not exercise the power of eminent domain over a qualified corporation or water authority, unless the commission cancels the certificate of public convenience and necessity granted to the qualified corporation or water authority pursuant to Section 77-3-13 for the service area wherein such facilities are located, and such qualified corporation or water authority does not have outstanding loans with the State or guaranteed by the State. Nothing in this paragraph shall be construed as a waiver to any right granted under federal law.

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§ 51-41-9. Authority and procedure to incorporate

(1) Whenever a qualified corporation desires to convert into and become reconstituted and reincorporated as a water authority under this chapter, the qualified corporation shall present to and file with the Secretary of State:

(a) Its resolution duly adopted by the board of directors of the qualified corporation that evidences the desire of the qualified corporation to convert into and become reconstituted and reincorporated as a water authority and that also certifies that the qualified corporation:

- (i) Was initially formed as a not-for-profit corporation or association; and
- (ii) Desires to operate as a public body authorized under the laws of Mississippi as a result of its conversion and reconstitution as a water authority under this chapter;

(b) Its application for reconstitution and certificate of incorporation, which shall state and include the following information:

- (i) The name of the water authority, which shall be "The _____ Public Water Authority of the State of Mississippi," or some other name of similar import, it being understood that the water authority may adopt a fictitious operational name upon written request to and approval by the Secretary of State;
- (ii) The location of the water authority's principal office, and the number of directors of the water authority, which shall be subject to change and modification as provided in the water authority's bylaws;
- (iii) The names and addresses of the initial board of directors of the water authority;
- (iv) The name and address of the agent for service of process of the water authority; and
- (v) Any other matters that the initial board of directors of the water authority may deem necessary and appropriate;

(c) A copy of the water authority's bylaws along with any other information that the initial board of directors of the water authority may deem necessary and appropriate;

(d) A statement and certification from the Secretary of State that the proposed name of the water authority is not identical with that of any other water authority in the state, or so nearly similar thereto as to lead to confusion and uncertainty; and

(e) A reasonable filing and review fee that the Secretary of State may designate and determine from time to time, which shall not be in excess of the filing fee charged in connection with the receipt and filing of a corporation's articles of incorporation.

(2) Two (2) or more qualified corporations may jointly convert into and become reconstituted and reincorporated as one (1) water authority under the same procedure as specified for one (1) qualified corporation under this act.

§ 51-41-11. Existence of water authority

The application for reconstitution and certificate of incorporation shall be signed and acknowledged by a majority of the board of directors of the qualified corporation. When the application for reconstitution and certificate of incorporation and other required documents have been so filed with and accepted by the Secretary of State, as evidenced by the issuance by the Secretary of State of its certificate of existence in a form that the Secretary of State may deem appropriate, the water authority referred to in the application shall come into existence and shall constitute a body corporate and politic in perpetuity with power of perpetual succession and a political subdivision of the state under the name set forth in the application, and the water authority shall be vested with the rights and powers granted in this act and any other applicable laws. At the same time, the qualified corporation shall cease to exist and all assets and liabilities of every nature, including without limitation, all real property, personal property, certificate of public necessity and convenience, contractual obligations, lending obligations outstanding, rights afforded borrowers of federal and state funds and other tangible and intangible assets and liabilities of every nature shall, without need for further action or approval by any third party, be vested in and shall accrue to the benefit of the water authority. The water authority shall then send notice of transfer of said certificate to the Mississippi Public Service Commission.

§ 51-41-13. Board of directors

(1) The water authority shall have a board of directors composed of the number of directors provided in the application for reconstitution and certificate of incorporation, which shall not be fewer than five (5) directors. All powers of the water authority shall be exercised by the board or under its authorization.

(2) The directors shall be elected and determined, and shall serve in accordance with those procedures that the water authority may specify in its bylaws; provided, however, that each water or sewer user served by the water authority shall be entitled to vote on the election of directors of the water authority. The water authority's bylaws shall contain provisions and procedures for the election and appointment of its directors that are identical in nature to those same provisions and procedures as contained in the qualified corporation's bylaws, unless otherwise amended by the water authority or required by state law. A water authority shall promptly file a copy of any amendments to its bylaws with the Secretary of State. A water authority also may promulgate rules and regulations, not inconsistent with state law, containing provisions and procedures for the election and appointment of its directors.

(3) Each director shall take and subscribe to the oath of office prescribed in Section 268, Mississippi Constitution of 1890, that he will faithfully discharge the duties of the office of director, which oath shall be maintained on file by the water authority. Before entering upon the discharge of the duties of his office, each director shall be required to execute a bond payable to the State of Mississippi in the penal sum of Ten Thousand Dollars (\$10,000.00), conditioned that he will faithfully discharge the duties of his office.

(4) A majority of the members of the board shall constitute a quorum for the transaction of business. No vacancy in the membership of the board shall impair the right of a quorum to exercise all the powers and duties of the water authority. A director shall continue in office until the director's successor is properly elected and accepts office.

(5) The members of the board and the officers of the water authority shall serve without compensation, except that they may be reimbursed for actual expenses incurred in and about the performance of their duties.

(6) All meetings and records of the water authority shall be subject to the Mississippi Open Meetings Act and the Mississippi Public Records Act.

(7) All proceedings of the board shall be reduced to writing by the secretary of the water authority and appropriately recorded and maintained in a well bound book.

§ 51-41-15. Officers

The officers of the water authority shall consist of a chairman, vice chairman, a secretary, a treasurer, and such other officers as the board deems necessary to accomplish the purposes for which the water authority was organized. All officers of the water authority shall be persons who receive water service from the water authority. The offices of secretary and treasurer may, but need not, be held by the same person. The treasurer or secretary-treasurer shall be required to execute a bond payable to the water authority, in a sum and with such security as fixed and approved by the board. All officers of the water authority shall be elected by the board and shall serve for those terms of office as specified in the bylaws.

§ 51-41-17. Powers generally

The water authority shall have the following powers, acting either individually or jointly with other water authorities or public entities, together with all powers incidental thereto or necessary to the discharge thereof:

- (a) To have succession in its designated name;
- (b) To sue and be sued and to prosecute and defend suits in any court having jurisdiction of the subject matter and of the parties;
- (c) To make use of a seal and to alter it at pleasure;
- (d) To adopt and alter bylaws for the regulations and conduct of its affairs and business;
- (e) To acquire, whether by purchase, gift, lease, devise, or otherwise, property of every description which the board may deem necessary to the acquisition, construction, equipment, improvement, enlargement, operation, administration or maintenance of a project, and to hold title thereto;
- (f) To construct, enlarge, equip, improve, maintain, consolidate, administer and operate one or more projects;
- (g) To borrow money, including interim construction financing, for any of its purposes;
- (h) To sell and issue its bonds;
- (i) To sell and issue refunding bonds;
- (j) To secure any of its bonds by pledge and indenture as provided in this act;
- (k) To appoint, employ and compensate such general managers, executive directors, agents, architects, engineers, attorneys, accountants and other persons and employees as the business of the water authority may require;
- (l) To provide for such insurance as the board may deem advisable;
- (m) To invest in obligations that are direct or guaranteed obligations of the United States of America, or other securities in which public funds may be invested by any other political subdivision under the laws of this state, any of its funds that the board may determine are not presently needed for its operational purposes;

- (n) To contract, lease and make lease agreements respecting its properties or any part thereof;
- (o) To exercise the power of eminent domain in accordance with the procedures prescribed by Title 11, Chapter 27, Mississippi Code of 1972;
- (p) To sell, convey or otherwise dispose of any of its properties or projects; and
- (q) To exercise and hold the authority and power granted to water supply systems and sewer systems under Sections 19-5-173, 19-5-175, 19-5-177 and 19-5-203.

§ 51-41-19. Tax exemption of projects

Each project, all the water authority's interest therein, and all income from the project, is determined and declared by the Legislature to be public property used exclusively for a public purpose and shall be exempt from ad valorem taxation by all taxing authorities.

§ 51-41-21. Issuance of bonds

- (1) The water authority is authorized at any time, and from time to time, to issue its bonds for the purpose of acquiring, constructing, improving, enlarging, completing and equipping one or more projects.
- (2) Before the water authority's proposed issuance of bonds, the water authority shall publish one (1) time in a newspaper of general circulation in the affected county or counties, notice of the proposed issuance of bonds, the approximate principal amount of bonds contemplated to be sold, a general description of the project contemplated to be constructed with bond proceeds and the date of a public meeting at which members of the public may obtain further information regarding the sale of the bonds and the development of the project. The notice shall be published at least ten (10) days before the date of the hearing. The water authority chairman, or his or her designee, shall be responsible for conducting the hearing and shall require all public comments that might pertain to the proposed issuance of bonds by the water authority. Upon compliance with the provisions of this section, no other notice, hearing or approval by any other entity or governmental unit shall be required as a condition to the issuance by the water authority of its contemplated bonds.
- (3) The principal of, and the interest, if any, on any bonds shall be payable out of the revenues derived from the projects with respect to which the bonds are issued, or from any other source available to the water authority.
- (4) None of the bonds of the water authority shall ever constitute an obligation or debt of the state, the municipality or county in which the water authority operates, the Secretary of State, or any officer or director of the water authority, or a charge against the credit or taxing powers of the state.
- (5) As the water authority determines, bonds of the water authority may:
 - (a) Be issued at any time and from time to time;
 - (b) Be in such form and denominations;
 - (c) Have such date or dates;
 - (d) Mature at such time or times and in such amount or amounts, provided that no bonds may mature more than forty (40) years after the date of issuance;
 - (e) Bear interest, if applicable, payable at such times and such rate or rates as may be established by the board;

- (f) Be payable at such place or places within or without the State of Mississippi;
 - (g) Be subject to such terms of redemption in advance of maturity at such prices, including such premiums; and
 - (h) Contain such other terms and provisions as may be appropriate or necessary in the discretion of the water authority.
- (6) Bonds of the water authority may be sold at either public or private sale in such manner, and from time to time, as may be determined by the board to be most advantageous. The water authority may pay all expenses, premiums and commissions that the board may deem necessary or advantageous in connection with the authorization, sale and issuance of its bonds.
- (7) All bonds shall contain a recital that they are issued under the provisions of this act, which recital shall be conclusive that they have been duly authorized under the provisions of this act.
- (8) All bonds issued under the provisions of this act shall be and are declared to be negotiable instruments within the meaning of the negotiable instruments law of the state and shall be in registered form.
- (9) All bonds issued by a water authority may be validated upon the direction of the board under Sections 31-13-1 through 31-13-11. The validation hearing shall be held in the county in which the principal office of the water authority is located.

§ 51-41-23. Execution of bonds

Bonds shall be executed by the manual or facsimile signature of the chairman of the water authority and by manual or facsimile signature of the secretary of the water authority. In case any of the officers whose signatures appear on the bonds cease to be that officer before the delivery of the bonds, their signatures shall nevertheless be valid and sufficient for all purposes. The bonds shall be sealed with the seal of the water authority.

§ 51-41-25. Security for bonds

- (1) The principal of, and interest, if any, on the bonds, may be secured by a pledge of the revenues of the water authority of that project financed by the water authority through its issuance of bonds, or from any other source that the water authority may deem necessary and appropriate, and may be secured by the creation of a mortgage and security interest encumbering the real property of the water authority, or security interest in all personal property and revenues of the water authority as set forth in the indenture.
- (2) The trustee under any indenture may be a trust company or bank having trust powers, whether located within or without the state.
- (3) The indenture may contain any agreements and provisions customarily contained in instruments securing evidences of indebtedness including, without limiting, the generality of the foregoing provisions respecting the nature and extent of the security; the collection, segregation and application of the revenues generated from the operation of any project covered by the indenture; covenants to always operate the project as a revenue-producing undertaking and to charge and collect, including the obligation to increase from time to time, sufficient revenue to maintain income at required levels; the maintenance and insurance of the project; the creation and maintenance of reserve and other special funds; and the rights and remedies available in the event of default to the holders of the bonds or the trustees under the indenture, all as the board shall deem advisable and as shall not be in conflict with the provisions of this act.
- (4) If there is any default by the water authority in payment of the principal of, or the interest, if any, on the bonds or in any of the agreements on the part of the water authority that may properly be included in any indenture

securing the bonds, the bondholders or the trustee under any indenture, as authorized in the indenture, may either in law or in equity, by suit, action, mandamus, or other proceeding, enforce payment of the principal or interest, if any, and compel performance of all duties of the board and officers of the water authority, and shall be entitled as a matter of right and regardless of the sufficiency of any such security to the appointment of a receiver in equity with all the powers of that receiver for the operation and maintenance of the project covered by the indenture and the collection, segregation, and applications of income and revenues from the project.

(5) The indenture may contain provisions regarding the rights and remedies of any trustee under the indenture and the holders of the bonds and the coupons and restricting the individual rights of action of the holders of the bonds and coupons.

(6) There is created a statutory lien in the nature of a mortgage lien upon any project, system or systems acquired or constructed with proceeds of bonds issued by a water authority under this act, including all extensions and improvements thereof or combinations thereof subsequently made, the lien shall be in favor of the holder or holders of any bonds issued under this act, and all that property shall remain subject to the statutory lien until the payment in full of the principal of and interest, if any, on the bonds. Any holder of the bonds or any of the coupons representing interest on the bonds may, either at law or in equity, by suit, action, mandamus or other proceedings, in any court of competent jurisdiction, protect and enforce the statutory lien and compel the performance of all duties required by this act, including the making and collection of sufficient rates for the service or services, the proper accounting thereof, and the performance of any duties required by covenants with the holders of any bonds issued under this act.

If any default is made in the payment of the principal of or interest, if any, on the bonds, any court having jurisdiction of the action may appoint a receiver to administer the water authority and the project, system or systems, with power to charge and collect rates sufficient to provide for the payment of all bonds and obligations outstanding against project, system or systems, and for payment of operating expenses, and to apply the income and revenues thereof in conformity with the provisions of this act and any covenants with bondholders.

§ 51-41-27. Bonds--tax exemption

The principal of and interest, if any, on bonds issued under the authority of this act shall be exempt from all state, county and municipal taxes. This exemption shall include income, inheritance and estate taxes.

§ 51-41-29. Proceeds from issuance of bonds

(1) The proceeds derived from all of the bonds, other than refunding bonds, may be used only to pay the costs of acquiring, constructing, improving, enlarging and equipping the project with respect to which they were issued, as may be specified in the proceedings in which the bonds are authorized to be issued and all costs incidental thereto, including without limitation:

(a) The costs of any land forming a part of the project and all easements that may pertain to or be associated with any project;

(b) The costs of the labor, materials and supplies used in any construction, improvement and enlargement, including architect's and engineer's fees and the cost of preparing contract documents and advertising for bids along with all other reasonable and necessary project cost;

(c) The purchase price of and the cost of installing equipment for the project;

(d) Legal, fiscal, accounting and recording fees and expenses incurred in connection with the authorization, sale and issuance of the bonds issued in connection with the project;

(e) Interest, if any, on bonds for a reasonable period before, during and after the time required for completion of

the project;

(f) The amount necessary to fund a debt service reserve in an amount deemed appropriate by the water authority;

(g) Cost associated with the obtaining of default insurance ratings and other credit enhancements of every nature; and

(h) Other operational expenses, reserves and other accounts of every nature.

(2) If any of the proceeds derived from the issuance of bonds remains undisbursed after completion of the project and the making of all such expenditures, the balance shall be used for the redemption of bonds of the same issue.

§ 51-41-31. Refunding bonds

(1) The water authority may at any time, and from time to time, issue refunding bonds for the purpose of refunding the principal of and interest, if any, on any bonds of the water authority previously issued under this act and then outstanding, whether or not the principal and interest have matured at the time of the refunding under this act, and for the payment of any expenses incurred in connection with the refunding and any premium necessary to be paid in order to redeem or retire the bonds to be refunded.

(2) The proceeds derived from the sale of any refunding bonds shall be used only for the purposes for which the refunding bonds were authorized to be issued.

(3) Any such refunding may be effected either by sale of the refunding bonds and the application of the proceeds thereof by immediate application or by escrow deposit, with the right to invest monies in the escrow deposit until needed for the redemption or by exchange of the refunding bonds for the bonds or interest coupons to be refunded thereby. However, the holders of any bonds so to be refunded shall not be compelled without their consent to surrender their bonds for payment or exchange before the date on which they may be paid or redeemed by the water authority under their respective provisions.

(4) Any refunding bonds of the water authority shall be payable solely from the revenues out of which the bonds to be refunded were payable or from those other sources or other revenues that might be identified in the indenture.

(5) All provisions of this act pertaining to bonds of the water authority that are not inconsistent with the provisions of this section shall, to the extent applicable, also apply to refunding bonds issued by the water authority.

§ 51-41-33. Act is full authority

This chapter shall be deemed to be full and complete authority for the creation of water authorities and the issuance of bonds as set forth in this act. No proceedings shall be required for the creation of water authorities or the issuance of bonds other than those provided for and required in this act. The board of directors of a water authority shall have all the powers necessary in order to carry out the provisions of this act.

Subject: Demonstration Project for Merging Water Systems in Mississippi

Introduction: Mississippi's water projects face tremendous hurdles of poverty and rural population challenges. For water projects, the reality of poverty and a rural population is a double-edged sword: any improvements are going to be costly because of the dispersed rural population and environmental conditions. The ability for communities to pay for improvements is severely hampered by the historic poverty of the region. [*Water Sense, Summer 2000*] This briefing contains information compiled by the USDA Rural Utilities Service staff to support the funding of a **Water Systems Merger Demonstration Project for the State of Mississippi**. The demonstration project will be utilized to show the benefits derived from the merging of two or more systems into one system with not less than 1,000 users.

Problem: Approximately 1,100 separate entities are currently providing water service to the residents of Mississippi. Approximately 83 percent of these providers have less than 1,000 connections. [*MSDH Listing of Public Water Supplies in Mississippi*] With regulatory demands constantly increasing and operating and maintenance costs rising higher, providing services to unserved and underserved areas places additional burdens on the already-stressed financial and managerial capabilities of the smaller systems. According to a 1999 report by EPA entitled *Drinking Water Infrastructure Needs Survey*, Mississippi water systems will need \$67.67 million each year for the next 20 years to meet needs related to maintenance, general upgrades, and compliance with regulatory requirements. Rural Utilities Service in Mississippi historically receives a fiscal year allocation of around \$36 million, with requests far exceeding that amount each year. Mississippi's allocation does not provide sufficient funds for the merger demonstration project we are proposing. We are estimating a need of \$5 million for this demonstration project.

Solution: This demonstration project will provide incentives to service entities to merge their operations, thus creating an economy of scale and the needed mechanisms to provide high-quality drinking water and wastewater services. Three (3) models have been formulated to be evaluated in this demonstration. The following are examples of successful voluntary mergers in the State: The first is the merging of small systems to create a system of at least 1,000 users. (SW Jones Water Association assuming Sanford Water Association) The second is the merging of municipal or other public bodies with adjoining non-profit water systems. (City of Ripley assuming Antioch Water Association) The third model will be merging financially "in the red" systems with one that is "in the black." (Black Bayou Water Association assuming Elizabeth Water Association) [*See Attachment A*]

Cost of Demonstration Project: To carry out this demonstration project, we estimate an average cost of \$250,000 per merger project, with a maximum of \$500,000 per project. These figures include costs to physically connect systems, as well as debt service reduction. We recognize that each merger will have different components and different associated costs, and it would be virtually impossible to estimate an exact cost of mergers in general. Thus we based our estimate on a sample of areas in the State that could possibly benefit from mergers, using examples of systems that could realistically merge. **We are requesting a special Congressional appropriation of \$5,000,000 for this demonstration project.** *[See Attachment B]*

Goals: The goals of this demonstration project are as follows:

- To decrease the number of poorly-managed water systems in Mississippi, thus helping to ensure that the limited financial, technical, and managerial resources of our State are fully leveraged and available to all of our citizens.
- To expand small water distribution systems in the State to service potential annexation areas and long-term growth areas.
- To create water systems that are financially self-sustaining, with users of the system paying the direct costs associated with their individual usage and a proportional share of general costs shared by all users, including operations and maintenance, debt service, and general administration expenses.
- To create water systems that are financially and managerially better able to meet the ever-increasing regulatory requirements, such as the Safe Drinking Water Act and the Disinfection By-Product Rule.

Suggested Incentives:

1. Waive median income criteria for grant eligibility, but limit grant amount under this incentive to a maximum. Suggest \$500,000 limit, as in the emergency grant program.
2. Relax existing regulations regarding grant eligibility. For example, if one system qualifies for grant and the other one doesn't, let their qualifications be the determining factor for the grant – not the overall system.
3. Make funds under this demonstration project available as a one-time grant-only.
4. Offer debt write-down or write-off, up to a maximum amount, for the system being taken over as an incentive if funds are not needed otherwise for the merger (such as costs for physically connecting the systems, upgrades, or equipment).

5. Make demonstration project funds available to the receiving system to purchase additional equipment for maintenance to accommodate the new users coming into the system.
6. Allow merged systems to re-amortize existing debt on a one-time basis.
7. No initial increase in rates to any members, or lower rates for at least one of the associations. For example, no rate increase to customers of a fiscally responsible system that takes on an insolvent system. Allow for flexibility of multiple rate schedules after merger.
8. Adopt a policy that the smaller system would be given representation on the existing board (expand the board).
9. Change the tax code so that bonds issued for this project will be free from Federal taxes. This will affect public bodies only.

Benefits of Merging:

1. Economy of scale for operations/management – larger customer base.
2. Larger systems in many cases can provide more reliable service. For example, it usually takes about 400 customers to justify the indebtedness and extra maintenance costs associated with acquiring elevated storage. A 100,000-gallon elevated tank, which serves around 400 customers, costs approximately \$370,000, which equates to roughly \$1,000 per customer. A 75,000- or 50,000-gallon elevated tank would cost only slightly less than a 100,000-gallon tank, and would thus result in larger cost per user on an even smaller customer base.
3. Cost of compliance with ever-increasing regulations would be spread over a larger customer base.
4. Larger systems are better able to afford technological upgrades (remote meter reading, computerized billing, computerized mapping of the system, etc.)
5. Larger systems are more able to afford to hire professional managers, who may oversee day-to-day operations better than a volunteer board.
6. If systems are merged into a utility district instead of a non-profit, the employees have access to state retirement, insurance, etc. They will be eligible to compete for state contracts, CDBG, state CAP loan funds, etc.
7. If merged into a utility district, the State Auditor can audit books of problem systems.
8. Larger reserve balance for the system.

Other:

1. Mergers should be strictly voluntary.
2. There should be no withholding of future RUS funds for systems that choose not to merge.
3. RUS will work closely with the Mississippi Rural Water Association, Rural Community Assistance Program, other State and Federal agencies, and the media to educate rural water systems regarding the benefits of mergers.

Attachments:

A – Merger Models

B – Support Documentation for Funding Request

Merger Models

Model I: The merger of a small system into a much larger system

Sanford Water Association, Inc. was a small system comprised of only 100 connections. The system consisted of a well, pressure tank, and distribution network. The association was debt free and was being properly managed by the elected board of directors. They could not afford a full time operator and had to rely on others for repairs and other services.

The major problems facing Sanford were that their distribution network could not support more customers and that the Health Department now requires that water systems have a minimum of two water sources or at least have standby electrical generation capacity to operate the system during power outages. Even with maximum grant funds, the costs to make these necessary improvements were not financially feasible.

Southwest Jones Water Association, Inc. was in the process of making a significant upgrade to their system when the idea of a merger was first presented. Southwest Jones has over 1,500 connections and is constantly growing. They are considered a viable system and are able to meet ever expanding demands.

One phase of their expansion was to provide water to new users near the Sanford area that Sanford was unable to serve. With just a minor increase in the scope of the proposed project, Southwest Jones was able to connect their network with Sanford and to upgrade Sanford's piping distribution to meet current design guidelines.

After the merger was finalized and the construction was completed, many benefits were realized. Water rates for the users in the old Sanford system were reduced after the merger. The Sanford customers are now a part of a large, viable system. The combined service area is managed by one board, and has a full-time operator and other necessary employees to properly operate and manage the day-to-day operations of the system.

Since Southwest Jones had multiple wells and elevated tanks, all customers are able to have water during power outages. Maintenance and operating costs per customer have been reduced. Proper hydraulic pressures are maintained throughout the distribution network and constant water quality is delivered. Southwest Jones has a new office that is located close to the Sanford area, providing customer service that essentially did not exist prior to the merger.

The merger of Sanford Water Association, Inc. and Southwest Jones Water Association, Inc. into one system has been very beneficial to both systems. The resulting system should continue to remain a viable and growing system.

Model II: Merging of municipal or other public bodies with adjoining non-profit systems

Antioch Water Association, Inc. in Tippah County was a small non-profit consisting of approximately 150 connections. The association purchased all of their water supply from the Town of Ripley. The association and town agreed to merge, and all of the assets were assumed by Ripley.

The Board of Directors for Antioch was constantly struggling with managing this small system. They were not large enough to hire a full-time operator, and managing the day-to-day operations became very tiring. Meter reading, billings, and payment collection were constant problems that plagued the people in charge. New Health Department regulations and testing requirements were also becoming a greater burden for the board.

Ripley and Antioch both benefited from the resulting merger. Antioch residents were now able to continue receiving the same water without any of the distractions caused by having to manage the system. Their rates did not increase and maintenance became the sole responsibility of Ripley. Since they were no longer purchasing water for resale, Ripley would be responsible for any leaks that occurred on the distribution system.

Ripley benefited from the merger because they were able to expand their customer base without having to make any improvements to the existing Antioch distribution system. No new municipal workers were needed as a result of this merger, thus improving the economy of scale for Ripley.

Model III: Merging financially “in-the red” system with one that is “in-the-black”

Elizabeth Water Association, Inc. is located in Washington County. The association consisted of approximately 80 users with one well, no elevated tank, and no appropriate distribution network. Elizabeth did not have a full-time operator and was not being adequately managed. They were not properly collecting their accounts and were constantly delinquent on their debt repayment to Rural Development.

Black Bayou Water Association, Inc. was undergoing a \$1,007,000 upgrade to their system. The improvements included a well and approximately 23 miles of new distribution piping. The association planned to add at least 80 new users to their customer base, bringing their total to 680 users. The well and some of the piping were being constructed in the vicinity of Elizabeth.

A plan was developed to merge Elizabeth with Black Bayou. They will be physically connected in the future, but the immediate need was to provide the management services being utilized by Black Bayou. Black Bayou had a full-time manager handling the operations of the system and also had operators and other support personnel to properly operate a system.

The merger has been completed and the benefits began immediately. With proper collection of accounts and other management practices, Elizabeth's accounts are now current. In fact, one of their outstanding loans will be paid off early. They now have a staffed office to use for payment of bills and to contact when problems arise. Prompt repairs are being made and customer complaints are being handled in a professional and equitable manner.

Elizabeth will also receive additional benefits when the systems are tied together hydraulically. They will have multiple water sources, their operating pressures will stabilize since Black Bayou has an elevated tank, and water service should continue in power outages due to the elevated tank and emergency generators located on the well sites.

Black Bayou is benefiting by adding to their customer base at a very nominal cost. They also have another well in their system. It is hoped that the success of this merger will result in additional merging of systems in the surrounding area.

Support Documentation For Funding Request

Three examples were selected as representative projects that have the potential to be merged if given the proper financial incentives. In Desoto County, Days Water Association, Inc., and Horn Lake Water Association, Inc., were chosen because they are physically located in close proximity to each other and Days does not have 1,000 users. In Panola County, there are five small systems that if they were merged, the resulting system would have over 1,000 users. In Washington County, three systems could be merged into one 1,000-user system.

Days Water has approximately 700 users. Horn Lake Water has over 1,000 users and is able to supply their customers with large reserve supply capacities including fire flows equal to the users in the surrounding metropolitan areas. A primary hindrance to the merger of these systems is the debt load of the Days system. If this debt was reduced by \$250,000, the potential for merging would be greatly increased.

Located in Panola County are five adjacent systems, all less than 1,000 users. Eureka Water Association, Inc., has approximately 400 users, Mount Olivet Water Association, Inc., 300 users, Lovejoy Water Association, Inc., 180 users, Hotophia Water Association, Inc., 500 users and Pope Courtland Water Association, Inc., 500 users. It has been estimated that it would take \$500,000.00 to physically merge these separate hydraulic entities into one system. The resulting system would be providing service to approximately 1,900 rural residences.

In Washington County, Black Bayou Water Association, Inc., has already merged the Elizabeth water system into their service area. There are two more systems nearby that would greatly benefit by merging with Black Bayou. They are Swiftwater Water Association, Inc., with approximately 315 users and the 500 customers of the Wayside/Riverside Water Association, Inc. These systems could be connected with approximately three miles of distribution construction. The cost for this construction would cost between \$200,000.00 and \$250,000.00.

Draft Amendment to Section 41-26-101

(2)(A) In addition to the training requirements for newly elected members, the members of each governing board of any community public water system, except systems operated by municipalities with a population greater than ten thousand (10,000), shall be requested to attend continuing training as set forth in this subsection. Within four (4) years of January 1, 2013, and in every four (4) year period thereafter, at least two (2) members of each governing board shall attend a minimum of four (4) hours per individual of continuing management training. The selection of board members to attend continuing management training shall be at the discretion of the board of each community public water system. The continuing management training shall include, but shall not be limited to, updates on new information relevant to the management of utility systems. The department may charge a fee not to exceed Twenty-five Dollars (\$25.00) per member to defray the actual cost of providing material and training. These costs shall also be reimbursed to each attending board member as an expense of the community public water system.