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Chapter No. 937
12/HR12/R1655
RB / EW

HOUSE BILL NO. 1533

Originated in House _____ Clerk

HOUSE BILL NO. 1533

AN ACT TO AUTHORIZE THE BOARD OF SUPERVISORS OF LEE COUNTY, MISSISSIPPI, TO CREATE THE SAND CREEK WASTEWATER AUTHORITY; TO PROVIDE THAT THE AUTHORITY SHALL BE GOVERNED BY A BOARD OF DIRECTORS; TO PROVIDE FOR THE MEMBERSHIP OF THE BOARD OF DIRECTORS; TO PROVIDE FOR THE POWERS AND DUTIES OF THE AUTHORITY; TO AUTHORIZE THE AUTHORITY TO ACQUIRE, CONSTRUCT, MAINTAIN AND OPERATE WASTEWATER SYSTEMS FOR AREAS SERVED BY ITS MEMBER AGENCIES; TO AUTHORIZE WASTEWATER PROVIDERS TO CONTRACT WITH THE AUTHORITY; TO AUTHORIZE ITS MEMBER AGENCIES TO CONTRACT WITH NONMEMBER AGENCIES WITH APPROVAL OF THE AUTHORITY; TO AUTHORIZE THE SAND CREEK WASTEWATER AUTHORITY TO ISSUE REVENUE BONDS TO PROVIDE FUNDS NECESSARY TO ACHIEVE THE PURPOSES OF THIS ACT; TO AUTHORIZE THE AUTHORITY, WITH THE APPROVAL OF THE AFFECTED WASTEWATER PROVIDER, TO ENTER INTO CONTRACTS WITH THE OWNERS OF PROPERTY TO PROVIDE IMPROVEMENTS NECESSARY TO PROVIDE WASTEWATER SERVICES; TO PROVIDE THAT THE AUTHORITY MAY ISSUE SPECIAL ASSESSMENT BONDS TO FINANCE SUCH IMPROVEMENTS AND TO AUTHORIZE THE AUTHORITY TO LEVY AND COLLECT SPECIAL ASSESSMENTS AGAINST THE PROPERTY BENEFITED THEREBY TO RETIRE SUCH BONDS; AND FOR RELATED PURPOSES.

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

SECTION 1. This act may be cited as the "Sand Creek Wastewater Authority Act."

SECTION 2. The purpose of this act is to authorize a cooperative effort by the member agencies and any and all public agencies situated, in whole or in part, within Lee County or within any county adjacent thereto including without limitation any municipalities or public agencies currently existing or subsequently created, for the acquisition, construction and operation of user-funded wastewater systems, in order to prevent and control the pollution of the waters in this state by the creation of a Sand Creek Wastewater Authority.

SECTION 3. As used in this act, words and phrases shall have meanings as follows:

(a) "Act" means the Sand Creek Wastewater Authority Act, as amended from time to time.

(b) "Authority" means the Sand Creek Wastewater Authority.

(c) "Board of directors" means the board of directors of the authority.

(d) "Bonds" means revenue bonds, interim notes having a maturity of three (3) years or less, and other certificates of indebtedness of the authority issued under the provisions of this act.

(e) "Costs of the project" means:

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

(ii) All costs of construction;

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

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

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

(vi) Administrative expenses; and

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

(f) "Ditch" means any branch or lateral drain, tile drain, levee, sluiceway, watercourse, floodgate and any other

construction work fund necessary for the reclamation of wet and overflowed lands.

(g) "Facilities" means any structure, building, ditch, pipe, channel, improvement, land or other real or personal property used or useful in a system under this act.

(h) "Member agencies" means the members of the authority which shall initially consist of the City of Saltillo, the City of Baldwyn, the Town of Guntown and Lee County. Additional member agencies may be added as provided in this act.

(i) "Municipality" means any incorporated city or town of the State of Mississippi, whether operating under general law or under special charter, lying wholly or partly within Lee County or any county adjacent thereto.

(j) "Person" means and includes the State of Mississippi, a municipality as defined herein, any public agency as defined herein or any other city, town or political subdivision or governmental agency of the State of Mississippi or of the United States of America, or any private utility, individual, company, partnership, association, firm, trust, estate or any other entity whatsoever.

(k) The terms "pollution" and "waters of the state" shall have meanings as set forth in the Mississippi Air and Water Pollution Control Law, as now or hereafter amended, appearing as Sections 49-17-1 through 49-17-70, Mississippi Code of 1972.

(l) "Public agency" means any municipality, lying wholly or partially within Lee County or any county adjacent thereto, any agency or instrumentality or public entity of or created by the state, and any public utility district created pursuant to Sections 19-5-151 through 19-5-257, Mississippi Code of 1972, lying wholly or partially within Lee County and having the power to own and operate sewerage systems, treatment facilities or sewage disposal systems.

(m) "Service area" means with respect to any member agency, the area served by any member agency from time to time, including without limitation those areas served by the member agency through contracts with other public agencies.

(n) "Service area plan" means a comprehensive plan for a wastewater system within the service area, consistent with standards established pursuant to applicable federal and state law.

(o) "Sewerage system" means pipelines or conduits, canals, pumping stations and force mains, and all other structures, devices, facilities and appliances appurtenant thereto, used for collecting or conducting wastewater to an ultimate point for treatment or disposal.

(p) "System" means any or all of the following: wastewater systems and all vehicles, structures, devices, facilities and appliances used for wastewater treatment or for collecting or conducting wastewater to an ultimate point for treatment or disposal.

(q) "Treatment facilities" means any plant, disposal field, lagoon, pumping station, drainage ditch or surface water intercepting ditch, canal, or other works not specifically mentioned herein, installed for the purpose of treating, neutralizing, stabilizing or disposing of wastewater or sludge, or facilities to provide for the disposal or recycling of any products of such treatment.

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

(s) "Wastewater disposal system" means a system for disposing of wastewater, including, but not limited to, sewerage systems and treatment facilities, as such terms are defined

herein. Words of the masculine gender shall be deemed and construed to include correlative words of the feminine and neuter genders. Unless the context shall otherwise indicate, words and terms herein defined shall be equally applicable to the plural as well as the singular form of any such words and terms.

SECTION 4. (1) (a) Prior to the establishment of the authority, the Board of Supervisors of Lee County must adopt a resolution proposing the establishment of the authority.

(b) The resolution prescribed under paragraph (a) of this section shall include the following:

(i) A statement of the necessity for the service or services to be supplied by the proposed authority;

(ii) The proposed corporate name for the authority;

(iii) The initial boundaries of the authority in general terms, which shall be the service areas of its member agencies;

(iv) The initial member agencies, which shall be the Town of Guntown, the City of Baldwyn, the City of Saltillo and Lee County;

(v) An estimate of the cost of the acquisition or construction of the initial facilities to be operated by the authority with disclosure that the estimate shall not serve as a limitation upon the financing of the creation, operation, improving upon or extending of the authority.

(2) Upon the approval of the Board of Supervisors of Lee County of the appropriate resolution, the Board of Supervisors of Lee County shall fix a time and place for a public hearing upon the question of the public convenience and necessity of the incorporation of the proposed authority. The hearing shall not be less than twenty-one (21) days after the approval of the resolution. The date of the hearing, the place at which it shall be held, the initial service areas in general terms of the

authority, and the purpose of the hearing, shall be set forth in a notice to be signed by the clerk of the Board of Supervisors of Lee County to be published in a newspaper having general circulation in the county once a week for at least three (3) consecutive weeks before the date set forth for the hearing. The first such publication shall be made not less than twenty-one (21) days before the date of such hearing and the last publication shall be made not more than fourteen (14) days before the date of such hearing.

(3) After the public hearing, should the Board of Supervisors of Lee County determine that the public convenience and necessity require the creation of the authority, and that the creation of the authority is economically sound and desirable, the Board of Supervisors of Lee County shall adopt a resolution making the aforesaid findings and declaring its intention to create the authority on a date to be specified and designating the name of the proposed authority and its initial service areas. Metes and bounds description shall not be necessary. Such date shall be not less than fifteen (15) days following such hearing and not more than thirty (30) days following such hearing. On the date set for that purpose, should said board of supervisors find that the creation of the proposed authority is in the public interest, it shall approve and create such authority by resolution entered on its minutes, taking into account any facts and information made available to it in the public hearing.

SECTION 5. (1) If at any time any public agency within Lee County or in a county adjacent thereto shall elect to become a member agency of the authority by a majority vote of the governing body of such public agency, such public agency may be admitted as a member agency of the authority, upon the approval of the board of directors of the authority in accordance with its policies set forth in its bylaws governing such admissions.

(2) Any member agency may withdraw from membership upon resolution of its governing board and notice to the authority, provided that:

(a) No bonds of the authority are then outstanding that were issued while such member agency was a member of the authority, unless such bonds are defeased according to their terms and no longer constitute a lien on the revenues or otherwise constitute an indebtedness of the authority under the documents authorizing and securing such bonds.

(b) No other contracts of the authority will be materially impaired, unless all affected persons have approved such withdrawal.

SECTION 6. (1) All powers of the authority shall be exercised by a board of directors to be selected and composed as follows: The governing body of each member agency shall appoint one (1) person to serve on the board of directors of the authority, each such director to serve at the pleasure of the respective governing body. The board of directors may allow the designation of a person by any member agency to serve in the absence of its regularly appointed member pursuant to a policy approved by resolution.

(2) The board of directors of the authority shall annually elect from its number a president and vice president of the 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 perform all duties and exercise all powers conferred by this act upon the president when the president is absent or fails or declines to act, except the president's right to vote. The board shall also appoint a secretary and a treasurer who may or may not be members of the board, and it may combine those officers. The treasurer shall give bond in the sum of not

less than Fifty Thousand Dollars ($50,000.00) as set by the board of directors, and each director may be required to give bond in the sum of not less than Ten Thousand Dollars ($10,000.00), with sureties qualified to do business in this state, and the premiums on the bonds shall be an expense of the authority. Each such bond shall be payable to the State of Mississippi; the condition of each such bond shall be that the treasurer or director will faithfully perform all duties of his office and account for all money or other assets which shall come into his custody as treasurer or director of the authority.

(3) Except as otherwise provided herein, all business of the authority shall be transacted by affirmative vote of a majority of those voting. The quorum for any meeting of the board of directors shall be a majority of the total membership of the board of directors. Upon admission of a new member agency, the authority and the new member agency are each authorized to enter into agreements with the other setting out the responsibilities and obligations of both the authority and the member agency and setting forth the terms and conditions of the business to be conducted between them.

SECTION 7. The authority shall have the following powers:

(a) The authority shall have the power to sue and be sued, provided that the authority shall not be liable and shall be immune from suit at law or in equity on account of any wrongful or tortious act or omission, including libel, slander or defamation, by it, or any such act or omission by any employee of the authority, subject to and in accordance with the provisions of Sections 11-46-1 through 11-46-19, Mississippi Code of 1972.

(b) The authority is authorized and empowered to acquire, construct, improve, enlarge, extend, repair, operate and maintain one or more systems and to make contracts with any person in furtherance thereof; and to make contracts with any public agency, under the terms of which the authority will collect,

transport, treat and dispose of wastewater. The authority may also enter into contracts with any person to design and construct any system, and thereafter purchase, lease or sell, by installments over such terms as may be deemed desirable, or otherwise, any such system. The authority is also authorized 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 facilities or systems; and the authority may lease to or from any person, for such term and upon such conditions as may be deemed desirable, any facilities or systems. Any such contract may contain provisions requiring any public agency or other person to regulate the quality of water and the quality and strength of wastewater to be handled by the system and may also provide that the authority shall have the right to use any streets, alleys and public ways and places within the jurisdiction of a public agency during the term of the contract. Any provision of this act to the contrary notwithstanding, the authority shall not become the owner of any existing sewage disposal system unless all municipalities or other public agencies currently utilizing such system or any portion thereof are offered access to such sewage disposal system.

(c) To develop and maintain long-range planning for collection and treatment of wastewater and for pollution abatement.

(d) To adopt and issue a certificate of convenience and, necessity to use the power of eminent domain, including the right of immediate possession, in the acquisition of real property. Upon the adoption of a certificate of convenience and necessity, which shall state the description of the real property needed to be acquired by eminent domain, the authority shall transmit a copy of the certificate to the Board of Supervisors of Lee County, the governing authorities of any public agency with the power of eminent domain or any other entity with the power of

eminent domain. The board or entities may initiate proceedings under the provisions of Chapter 27, Title 11, Mississippi Code of 1972, on behalf of the authority to carry out the purposes set forth in the certificate. The eminent domain proceeding thereby initiated shall be conducted according to and governed by the provisions of Chapter 27, Title 11, Mississippi Code of 1972.

(e) To acquire and to own, maintain, use, operate and convey or otherwise dispose of any and all property of any kind, real, personal or mixed, or any interest therein within or without the boundaries of its designated service area necessary or convenient to the exercise of the purposes of and the powers granted by Section 21-27-7 and Sections 21-27-161 through 21-27-191, Mississippi Code of 1972, as amended, regarding the system of the authority unless any of the foregoing is otherwise prohibited under the State Constitution or this act. The amount and character of interest in land, other property, and easements thus to be acquired shall be determined by the board of directors, and their determination shall be conclusive and shall not be subject to attack in the absence of manifold abuse of discretion or fraud on the part of such board in making such determination. However, the following shall apply:

(i) In acquiring lands, the authority shall not acquire minerals or royalties; provided that sand and gravel shall not be considered as minerals within the meaning of this section; and

(ii) No person or persons 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 interests on any land or interest thereon of the authority held or used for the purposes of this act; but any such activities shall be under such reasonable regulations by the board

of directors as will adequately protect the systems of the authority contemplated by this act.

(f) To provide for the necessary relocation or rerouting of roads and highways, railroads, telephone and telegraph lines and properties, electric power lines, gas pipe lines and related facilities, or to require the anchoring or other protection of any of these, provided due compensation is first paid to the owners thereof or agreement is had with, such owners regarding the payment of the cost of such relocation, and to acquire easements or rights-of-way for such relocation or rerouting and to convey the same to the owners of the property being relocated or rerouted in connection with the purpose of this act.

(g) To enter into contracts with any public agency in furtherance of any of the purposes authorized by this act upon such consideration as the board of directors and such public agency 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 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.

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

(i) To employ staff and other personnel, including attorneys, engineers and consultants. The board of directors may, in its discretion, employ a general manager having the authority

to employ and fire any or certain designated employees of the authority.

(j) To accept and utilize grants and other funds from any source for systems.

(k) To establish and maintain rates and charges for the use of the services of such systems, and from time to time to adjust such rates, to the end that the revenues therefrom will be sufficient at all times to pay the expenses of operating and maintaining such systems and all of the authority's obligations under any contract or bond resolution with respect thereto.

(l) To adopt rules and regulations necessary to carry out the implementation of the service area plan and to assure the payment by each participating public agency of its proportionate share of system costs.

(m) To refuse to receive wastewater from any public agency or subdivision thereof that does not comply with the provisions of the service area plan applicable to the particular area within which such public agency or subdivision thereof is located.

(n) To accept industrial wastewater for treatment and to require the pretreatment of same when in the opinion of the authority such pretreatment is necessary.

(o) To adopt all necessary and reasonable rules and regulations to carry out and effectuate any wastewater treatment or disposal plan adopted for the service area, as contractually authorized.

(p) So long as any indebtedness on any sewerage system, treatment facilities and sewage disposal system of the authority remains outstanding, to require by contract with a public agency or other person that all wastewater within the service area be disposed of through sewerage systems, treatment facilities and sewage disposal systems which comprise a part of the service area plan, to the extent that the same may be available, but no public

agency shall be precluded from constructing, operating and maintaining its own sewerage system and sewage disposal systems after all indebtedness owing on the system is paid in full.

SECTION 8. Member agencies shall have the power to contract with other public agencies regarding the collection, transportation and treatment of wastewater of such public agency, but only with approval of the authority. Any contracts regarding the collection, transportation and treatment of wastewater existing upon approval of this act shall be deemed to have been approved upon the formation of the authority.

SECTION 9. (1) Any public agency may, pursuant to a duly adopted resolution of the governing authority of such public agency, enter into contracts with the authority under the terms of which the authority will collect, transport, treat and dispose of wastewater. Any public agency may also, pursuant to a duly adopted resolution of the governing authority of such public agency, enter into contracts with the authority under the terms of which the authority will collect, store, treat and distribute any recycled water for such public agency, and the authority may also, by duly adopted resolution of its board of directors, enter into contracts with member agencies and other public agencies under which the authority will collect, store, treat and distribute any recycled water for such member agency or any public agency. Any public agency may also enter into contracts with the authority for the authority to purchase or sell, by installments over such terms as may be deemed desirable, or otherwise, any sewerage, sewage disposal or treatment facilities or systems. Any public agency is also authorized to enter into operating agreements with the authority, for such terms and upon such conditions as may be deemed desirable, for the operation of sewerage, sewage disposal or treatment facilities or systems by the authority or by any person contracting with the authority to operate such systems; and any public agency may lease to or from the authority, for such

term and upon such conditions as may be deemed desirable, any sewerage, sewage disposal or treatment facilities or systems. Any such contract may contain provisions requiring any public agency to regulate the quality and strength of wastewater to be handled by the sewage disposal system and may also provide that the authority shall have the right to use any streets, alleys and public ways and places within the jurisdiction of a public agency during the term of the contract for any of its systems. Such contracts may obligate the public agency to make payments to the authority or to a trustee in amounts which shall be sufficient to enable the authority to defray the expenses of administering, operating and maintaining its sewerage, sewage disposal and treatment system or systems, to pay interest and principal, whether at maturity upon redemption or otherwise, on bonds of the authority issued pursuant to this act and to fund reserves for debt service, for operation and maintenance and for renewals and replacements, and 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 authority issued pursuant to this act. Any public agency shall have the power to enter into such contracts with the authority as in the discretion of the governing authorities thereof would be in the best interest of such 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 provided by law or any revenues from its sewerage, sewage disposal systems, or combined systems of which such systems are a part. Any such contract may provide for the sale or lease to or use of by the authority of any system or any part thereof of the public agency; may provide that such authority shall operate any system or any part thereof of the public agency; may provide that any public agency shall have the right to

continued use and/or priority use of any of its system or any part thereof during the useful life thereof upon payment of reasonable charges therefor; may contain provisions to assure equitable treatment of public agencies who contract with the authority pursuant to 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 system or systems, or any part thereof or the term of any bonds sold with respect to such facilities or improvements thereto.

(2) 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 utility systems or any part thereof, such obligations shall be treated as expenses of operating such system.

(3) 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 system or any part thereof subject to repayment by the authority. A public agency may make such contributions or advances from its general fund or surplus fund or from a combined utility system of which such system is a part, or from special assessments or from any monies legally available therefor.

(4) Payments made or to be made to the authority by a public agency pursuant to a contract for a system or any part thereof

shall not be subject to approval or review by the Mississippi Public Service Commission.

(5) Subject to the terms of a contract or contracts referred to in this act, the 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 by any system operated or maintained by the authority, whether or not such system is owned by the authority.

(6) 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 a system or any part thereof owned or operated by such public agency.

SECTION 10. Whenever a public agency shall have executed a contract pursuant to this act and the payments thereunder are to be made either wholly or partly from the revenues of a system of a public agency, or any part thereof, or a combined utility system of which such system is a part, the duty is hereby imposed on the public agency to establish and maintain and from time to time to adjust the rates charged by the public agency for the services of such system or systems, such that the revenues therefrom together with any taxes and special assessments levied in support thereof will be sufficient at all times to pay the following:

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

(b) All of the public agency's obligations under and in connection with revenue bonds theretofore issued, or which may be issued thereafter and secured by the revenues of such system or systems.

Any such contract may require the use of consulting engineers and financial experts to advise the public agency whether and when such rates are to be adjusted.

SECTION 11. (1) The authority shall have the power, and is hereby authorized, from time to time, to borrow money and to issue revenue bonds in such principal amounts as the 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 a project for a system, 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 authority, the payment of interest on bonds of the 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 authority's system, and all other expenditures of the authority incident to or necessary or convenient to carry out the purposes of this act.

(2) Before issuing bonds, other than interim notes or refunding bonds as provided in Section 10 of this act, hereunder, the board of directors of the authority shall first hold a public hearing with due notice of the time, date and place of the hearing published in a newspaper of general circulation in the service area. The board of directors 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 hold such hearing. The board of directors shall cause the resolution of intent calling such hearing to be published once a week for at least three (3) consecutive weeks in at least one (1) newspaper having a general circulation within the

service area. The first publication of such resolution shall be made not less than twenty-one (21) days before the date fixed in such resolution to hold such hearing and the last publication shall be made not more than fourteen (14) days before such date.

(3) Following the public hearing, bonds of the authority may be issued pursuant to this act 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 authority and one or more of its member 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, any special assessments pursuant to this act, and any other monies legally available and designated therefor, as may be determined by the authority, subject only to any agreement with the purchasers of the bonds. Such bonds may be further secured by a trust indenture between the authority and a corporate trustee, which may be any trust company or bank having powers of a trust company without or within the state.

(4) Bonds of the authority issued pursuant to this act shall be authorized by a resolution or resolutions adopted by a three-fifths (3/5) affirmative vote of the total membership of the board of directors of the 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, as amended from time to time, 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, 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.

(5) Bonds of the 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 the authority to be in the public interest, and the authority may pay all expenses, premiums, fees and commissions which it may deem necessary and advantageous in connection with the issuance and sale thereof.

(6) Any pledge of earnings, revenues or other monies made by the 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 the 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 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.

(7) 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.

(8) Proceeds from the sale of bonds of the 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.

(9) 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.

SECTION 12. (1) The 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 for the payment of 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.

(2) 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 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.

SECTION 13. All bonds, other than 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, as amended from time to time; however, notice of such validation proceedings shall be addressed to the citizens of the respective member public agencies (a) which have contracted with the 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 the authority proposed to be issued, and that such notice shall be published at least once in a newspaper or newspapers having general circulation within the service area. Such validation proceedings shall be instituted in the Chancery Court of Lee County. 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 authority and the public agencies which are parties to said contracts; and the validity of said bonds and said contracts and the payments to be made thereunder shall never be called in question in any court in this state.

SECTION 14. 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 authority or any member agency thereof. Such bonds shall not be secured by a pledge of the full faith and credit of the State of Mississippi, the authority or any member agency thereof, but shall be payable solely from the revenues or assets of the authority pledged therefor. Each bond issued under this act shall contain on the face thereof a statement to the effect that the authority

shall not be obligated to pay the same nor the interest thereon except from the revenues or assets pledged therefor.

SECTION 15. The authority shall have power in connection with the issuance of its bonds 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 bond 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 pledge of or the grant of a security interest in all or any part of the revenues from any designated system or any part thereof or any revenue-producing contract or contracts made by the 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 the 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 the 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 do any and all such acts and things as may be necessary or convenient or desirable in order to secure its bonds, or which in the absolute discretion of the 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 the 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.

(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 authority may reasonably require.

SECTION 16. The authority may, in any authorizing resolution of the board of directors, trust indenture or other security instrument relating to its bonds, 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 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 system 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 the authority in the same manner as the authority itself might do, all under the direction of such court.

SECTION 17. (1) The exercise of the powers granted by this act shall 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 authority shall not be required to pay any tax or assessment on any property owned

by the authority under the provisions of this act or upon the income therefrom; nor shall any authority be required to pay any recording fee or transfer fee or transfer tax of any kind on account of instruments recorded by it or on its behalf.

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

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

SECTION 19. The state hereby covenants with the registered owners of any bonds of the authority that so long as the bonds are outstanding and unpaid the state will not limit or alter the rights and powers of the authority under this act to conduct the activities referred to herein in any way pertinent to the interests of the bondholders, including, without limitation, the 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 the bonds, or in any other way impair the rights and remedies of the registered owners of the bonds, unless provision for full payment of such bonds, by escrow or otherwise, has been made pursuant to the terms of the bonds or the resolution, trust indenture or security interest securing the bonds.

SECTION 20. The provisions of this act are cumulative of other statutes now or hereafter enacted relating to the issuance of bonds and systems; and to the design, construction, acquisition

or approval of facilities for such purposes, and any public agency may exercise all presently held powers in the furtherance of this act.

SECTION 21. If any clause, sentence, paragraph, section or part of the provisions of this act shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof directly involved in the controversy in which such judgment shall have been rendered.

SECTION 22. This act shall take effect and be in force from and after its passage.

PASSED BY THE HOUSE OF REPRESENTATIVES
April 9, 2012

Philip Gunn

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PASSED BY THE SENATE
April 26, 2012

Tate Reeves

PRESIDENT OF THE SENATE

APPROVED BY THE GOVERNOR

Phil Bryant

GOVERNOR

5/3/12 3:04 pm