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Chapter No. 356
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# *HOUSE BILL NO. 593*

Originated in House _____ Clerk

HOUSE BILL NO. 593

AN ACT TO PROVIDE THAT THE PEARL RIVER BASIN DEVELOPMENT DISTRICT SHALL BE DISSOLVED AND THE DEPARTMENT OF FINANCE AND ADMINISTRATION SHALL BE THE AGENT-IN-FACT FOR THE DISTRICT FOR ALL PURPOSES AND THE DEPARTMENT SHALL HAVE ALL OF THE AUTHORITY THAT WAS FORMERLY GRANTED TO THE DISTRICT; TO AUTHORIZE THE DEPARTMENT TO SETTLE ANY OUTSTANDING OPERATING ACCOUNTS OF THE DISTRICT; TO PROVIDE THAT THE DEPARTMENT SHALL HAVE THE USE OF ALL FUNDS THAT WERE FORMERLY AVAILABLE TO THE DISTRICT AND THE NET PROCEEDS FROM THE SALE OF ANY PROPERTY OF THE DISTRICT IN ORDER TO FULFILL THE DISTRICT'S OUTSTANDING FINANCIAL OBLIGATIONS; TO AUTHORIZE THE DEPARTMENT TO ENGAGE ON A CONTRACT BASIS THE SERVICES OF ANY FORMER EMPLOYEE OR CONTRACT EMPLOYEE OF THE DISTRICT TO THE EXTENT THAT IT WOULD BE BENEFICIAL TO THE ADMINISTRATION OF DISSOLUTION OF THE DISTRICT AND THE PERFORMANCE OF THE DEPARTMENT'S OBLIGATIONS UNDER THIS ACT; TO AUTHORIZE THE DEPARTMENT TO DISPOSE OF ANY PERSONALTY OR EQUIPMENT OF THE DISTRICT AND TO SETTLE ANY EXISTING LEASE OR LEASES OF THE DISTRICT; TO AUTHORIZE THE DEPARTMENT TO TRANSFER ANY REAL PROPERTY OF THE DISTRICT TO THE COUNTY OR MUNICIPALITY IN WHICH THE PROPERTY LIES, PROVIDED THAT THE COUNTY OR MUNICIPALITY AGREES, AS CONSIDERATION FOR THE PROPERTY BEING RECEIVED, TO ACCEPT THE TRANSFER AND ANY DUTIES AND OBLIGATIONS APPURTENANT TO THE PROPERTY; TO PROVIDE THAT ANY EQUIPMENT ASSOCIATED WITH REAL PROPERTY OF THE DISTRICT THAT IS TRANSFERRED SHALL ALSO BE TRANSFERRED TO THE COUNTY OR MUNICIPALITY THAT ACCEPTS THE PROPERTY; TO PROVIDE THAT IF A COUNTY AND THE MUNICIPALITIES IN THE COUNTY CHOOSE NOT TO ACCEPT THE TRANSFER OF ANY REAL PROPERTY OWNED BY THE DISTRICT, THE COUNTY MAY MAKE A FINDING THAT THE PROPERTY WOULD BE SURPLUS TO THE NEEDS OF THE COUNTY, AND THE SECRETARY OF STATE MAY INSTITUTE PROCEEDINGS TO SELL THE SURPLUS PROPERTY; TO PROVIDE THAT THE

LIABILITY OF A COUNTY FOR ANY FINANCIAL OBLIGATIONS OR INDEBTEDNESS TO THE DISTRICT OCCURRING OR ACCRUING BEFORE THE DISSOLUTION OF THE DISTRICT SHALL CONTINUE IN EXISTENCE AFTER THE DISTRICT IS DISSOLVED AND SHALL BE PAYABLE BY THE COUNTY TO THE DEPARTMENT; TO PROVIDE THAT THE LOWER PEARL RIVER RESTORATION PROJECT SHALL CONTINUE AS PER EXISTING AGREEMENTS; TO PROVIDE THAT THE OBLIGATIONS OF THE DISTRICT UNDER THE AGREEMENTS FOR THE PROJECT MAY BE ASSUMED BY THE DEPARTMENT OF ENVIRONMENTAL QUALITY OR OTHER ENTITY AS THE DESIGNATED STATE ENTITY FOR THE CONTINUING OBLIGATION OF MAINTENANCE OF THE WATER CONTROL STRUCTURES AS SET FORTH IN THE ORIGINAL AGREEMENTS; TO PROVIDE THAT THE STATE AUDITOR SHALL PERFORM OR HAVE PERFORMED A FINAL CLOSE-OUT AUDIT OF THE ACCOUNTS OF THE DISTRICT; TO REPEAL SECTIONS 51-11-1 THROUGH 51-11-87, MISSISSIPPI CODE OF 1972, WHICH CREATE THE PEARL RIVER BASIN DEVELOPMENT DISTRICT AND PRESCRIBE ITS POWERS AND DUTIES; TO AMEND SECTION 25-1-77, MISSISSIPPI CODE OF 1972, TO CONFORM TO THE PRECEDING PROVISIONS; AND FOR RELATED PURPOSES.

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

**SECTION 1.** (1) On July 1, 2018, the Pearl River Basin Development District (the "district") is dissolved, and all statutory authority granted to the district under Sections 51-11-1 through 51-11-87 is repealed as provided in Section 5 of this act.

(2) Through June 30, 2018, the district is authorized to continue to conduct such business as is necessary to settle any accounts and/or financial obligations of the district.

(3) From and after July 1, 2018, the Department of Finance and Administration (the "department") shall be the agent-in-fact for the district for all purposes, and notwithstanding the repeal of the statutory authority of the district, the department shall have all of the authority that was granted to the district under Sections 51-11-1 through 51-11-87 as they existed on June 30, 2018, to the extent necessary and for as long as necessary for the

department to complete the dissolution of the district and ensure that all obligations of the district are met.

(4) From and after July 1, 2018, the department is authorized to settle any outstanding operating accounts of the district, and the department shall have the use of all funds that were available to the district before July 1, 2018, in the State Treasury or in any approved depository, together with any net proceeds derived from the sale of any property of the district, in order to fulfill the district's outstanding financial obligations. Those funds may be expended by the department upon appropriation by the Legislature, and shall not lapse into the State General Fund at the end of any fiscal year. However, if there are any of those funds remaining after all expenditures relating to the dissolution of the district have been made, the department shall deposit the remaining funds into the State General Fund. The department shall maintain accurate records of all accounts and disbursals of those funds and shall periodically share those records with the Legislative Budget Office and the Office of the State Auditor as a part of any close-out audit.

(5) From any funds that were formerly available to the district as described in subsection (4) of this section or any funds appropriated to the department specifically for this purpose, the department is authorized, in any fiscal year, to engage on a contract basis the services of any former employee or contract employee of the district to the extent that the State

Fiscal Officer deems such a contract to be beneficial to the administration of dissolution of the district and the performance of the department's obligations under this act.

(6) From and after July 1, 2018, the department is authorized to dispose of any personalty or equipment of the district as surplus property or through inventory transfer to another public entity, and is authorized to settle any existing lease or leases of the district, either by canceling, assigning or subleasing the same. For the vehicles of the district, the department may transfer any of the vehicles to other state agencies without any payment being required from the agency, or may sell any of the vehicles for such price as determined by the State Fiscal Officer, and shall deposit all funds received from the sale of the vehicles into the funds in the State Treasury that were formerly available to the district, as described in subsection (4) of this section.

**SECTION 2.** (1) Through June 30, 2018, the district, and from and after July 1, 2018, the department, is authorized to transfer any real property to which the district currently holds or formerly held title, specifically including, but not limited to, any water parks or similar facilities owned by the district, to the county or municipality in which the real property lies. As consideration for the property being received, the county or municipality must agree to accept the transfer and any duties and obligations appurtenant to the property. Any equipment associated

with a water park or other real property of the district that is transferred under this subsection shall also be transferred to the county or municipality that accepts the transfer of the real property.

(2) Any county or municipality accepting the transfer of a water park or other real property from the district or the department is authorized to assume any duties and obligations appurtenant to the property as formerly exercised by the district, including, but not limited to, the obligation to operate and maintain those properties out of the revenues of the county or municipality, the obligation to protect the property with either liability insurance or through the Mississippi Tort Claims Fund, and the assumption and/or transfer of any obligations as a recipient or sponsor of any state or federal grant or grant funds.

(3) Any county that chooses not to accept the transfer of any real property currently or formerly owned by the district, after determining that no municipality in the county wishes to have the property transferred to it, may make a finding that the property would be surplus to the needs of the county, by proper action and order of the board of supervisors of the county. Upon the making of a finding that a property would be surplus to the needs of the county, the Secretary of State may institute proceedings to sell the surplus property in accordance with Section 29-1-1, in accordance with the process described in Section 29-1-37, or in accordance with other applicable statutes.

The Secretary of State may deduct the costs of effecting the sale of the surplus property from the net proceeds of the sale before transferring the funds as authorized in this act. Proceeds from the sale of any such property shall, where applicable, be used for the acquisition of additional properties by the state, acting by and through the Mississippi Department of Wildlife, Fisheries and Parks, to satisfy any obligations imposed by grants as to the nature and use of the property.

(4) The liability of a county for any financial obligations or indebtedness to the district occurring or accruing before the dissolution of the district, including, but not limited to, the responsibility for paying its portion of any district bonds and other contractual obligations, and making annual payments to the district as set forth in Section 51-11-31, shall continue in existence after the district is dissolved and shall be payable by the county to the department. The department is authorized to take such actions as necessary to collect any financial obligations of a county to the district that are still outstanding after the district is dissolved.

**SECTION 3.** The following provisions related to the Lower Pearl River Restoration Project ("project") are contingent upon the development of an agreement, or an amendment to the existing agreement, between the United States Army, Corps of Engineers ("USACOE"), the Mississippi Department of Environmental Quality ("MDEQ"), the Department of Wildlife, Fisheries and Parks ("DWFP")

and the district, removing the district from the agreement, and possibly adding a new cooperating partner or partners and possibly removing the MDEQ and/or the DWFP from the agreement.

From and after July 1, 2018, the project, currently being managed as a joint effort of the USACOE, the MDEQ, the DWFP, and the district, shall continue as per existing agreements, which may be amended to reflect the dissolution of the district and its removal from those agreements. The obligations of the district under the current agreements for the project may be assumed by the MDEQ, or other entity, as the designated state entity for the continuing obligation of maintenance of the water control structures as set forth in the original agreements. The parties to the agreement may identify necessary maintenance activities needed to preserve the integrity of project structures and other ordinary maintenance activities as the parties may agree need to be performed. Funding to perform those maintenance activities shall come from the Lower Pearl trust account currently on deposit with a depository or depositories in the name of the Pearl River Basin Development District, which funds are a special fund set aside solely for the operation and maintenance of the project. From and after July 1, 2018, the parties to the agreement, may assume ownership, in trust, of those funds, and the funds shall be known as the "Lower Pearl River Restoration Trust Fund." Monies from this fund shall be a special fund set aside for the purpose(s) set forth in the amended or reformed agreement between

the parties and shall not lapse into the State General Fund, and may not be expended for any purpose other than operation and maintenance activities under the purview of the project.

**SECTION 4.** The State Auditor shall perform or have performed a final close-out audit of the accounts of the district. The close-out audit shall be in a form acceptable to the State Auditor and may be conducted in lieu of the usual annual audit of accounts, if the district had continued in existence. Costs of conducting the close-out audit may be defrayed from any funds formerly under the control of the district and currently under the control of the department.

**SECTION 5.** Sections 51-11-1, 51-11-3, 51-11-5, 51-11-7, 51-11-9, 51-11-11, 51-11-13, 51-11-15, 51-11-17, 51-11-19, 51-11-21, 51-11-23, 51-11-25, 51-11-27, 51-11-29, 51-11-31, 51-11-33, 51-11-35, 51-11-37, 51-11-39, 51-11-41, 51-11-43, 51-11-45, 51-11-47, 51-11-49, 51-11-51, 51-11-52, 51-11-53, 51-11-55, 51-11-57, 51-11-59, 51-11-61, 51-11-63, 51-11-65, 51-11-67, 51-11-69, 51-11-71, 51-11-73, 51-11-75, 51-11-77, 51-11-79, 51-11-81, 51-11-83, 51-11-85 and 51-11-87, Mississippi Code of 1972, which create the Pearl River Basin Development District and prescribe its powers and duties, are repealed on July 1, 2018.

**SECTION 6.** Section 25-1-77, Mississippi Code of 1972, is amended as follows:

25-1-77. (1) There is created the Bureau of Fleet Management within the Office of Purchasing, Travel and Fleet Management, Department of Finance and Administration, for the purposes of coordinating and promoting efficiency and economy in the purchase, lease, rental, acquisition, use, maintenance and disposal of vehicles by state agencies. The Executive Director of the Department of Finance and Administration may employ a Fleet Management Officer to manage the bureau and carry out its purposes. The bureau may employ other suitable and competent personnel as necessary. The bureau shall encourage the use of fuel efficient or hybrid vehicles appropriate for the state agency's intended purpose and, when feasible, the use of alternative fuels or energy sources, including, but not limited to, ethanol, biodiesel, natural gas or electric power. The bureau shall prepare a fiscal analysis of the cost-effectiveness of using alternative fuel or energy source vehicles by state agencies, and submit a report of that fiscal analysis to the Legislature by December 15, 2009. Not later than July 1, 2014, at least seventy-five percent (75%) of all vehicles to which the bureau holds title in the name of the state must have a fuel economy estimate by the United States Environmental Protection Agency of forty (40) miles per gallon or higher for highway driving.

(2) The Bureau of Fleet Management shall perform the following duties:

(a) To hold title in the name of the State of Mississippi to all vehicles currently in possession of state agencies as defined in Section 25-9-107(d) and to assign vehicles to such agencies for use; however, the bureau shall exempt any agency or agency vehicles from the provisions of this paragraph (a) if it determines that state or federal law requires that title be vested only in the agency;

(b) To establish rules and regulations for state agency use of vehicles;

(c) To gather information and specify proper fleet management practices for state agencies;

(d) To acquire fleet management software and require agencies to provide necessary information for the bureau to properly monitor the size, use, maintenance and disposal of the state's fleet of vehicles; the bureau shall communicate regularly with the fleet managers of each state agency to determine strengths and weaknesses of the various fleet operations; the bureau shall disseminate information to the agencies so that each can take advantage of any beneficial practices being incorporated at other entities; the bureau shall promulgate rules and regulations concerning the mileage reimbursement practices of each state agency;

(e) To carry out responsibilities relative to budget recommendations as provided in Section 27-103-129;

(f) To reassign vehicles in the possession of any state agency if the bureau believes that another state agency can make more efficient use of a vehicle; however, <u>except as otherwise provided in Section 1 of this act,</u> the state agency receiving the reassigned vehicle shall pay to the previous agency's special fund, or if no special fund exists to the State General Fund, the National Automobile Dealers Association (NADA) wholesale value for the vehicle or the estimated amount for which the vehicle would have sold at auction, as shall be determined by the bureau, whichever is less;

(g) To investigate at any time the vehicle usage practices of any state agency; and

(h) To require each agency to submit to the bureau a vehicle acquisition/use/disposal plan on an annual basis. From the plans received, the bureau shall evaluate the proposed plans and shall submit a recommendation to the Legislature prior to January 1 of each year.

(3) No state department, institution or agency shall purchase, rent, lease or acquire any motor vehicle, regardless of the source of funds from which the motor vehicle is to be purchased, except under authority granted by the Department of Finance and Administration. The Bureau of Fleet Management, Department of Finance and Administration, shall promulgate rules and regulations governing the purchase, rental, lease or acquisition of any motor vehicle by a state department,

institution or agency with regard to the appropriateness of the vehicle to its intended use. The Bureau of Fleet Management, Department of Finance and Administration, shall only grant authority to purchase, rent, lease or acquire a motor vehicle which is the lowest cost vehicle to carry out its intended use. Before the disposal or sale of any vehicle, the Bureau of Fleet Management shall make a determination that the lifetime use and mileage of the vehicle has been maximized and that it would not be feasible for another state agency to use the vehicle.

(4) The department, institution or agency shall maintain proper documentation which provides the intended use of the vehicle and the basis for choosing the vehicle. Such documentation shall show that the department, institution or agency made diligent efforts to purchase, rent, lease or acquire a vehicle that is the lowest cost vehicle for its intended use. Such documentation shall be updated as needed when the intended use of the vehicle or any other facts concerning the vehicle are changed. All such documentation shall be approved by the State Fleet Officer prior to purchase, rental, lease or acquisition or change in use of any vehicle and shall be maintained and made available for review by the State Auditor, any other reviewing agency and the Legislature. The Bureau of Fleet Management shall immediately notify the department head of any agency that has a vehicle found to be in violation of the bureau's rules and regulations. At the same time, the bureau shall notify the

Speaker of the House of Representatives and the Lieutenant Governor of its findings regarding any such vehicle. If the violation is not rectified within five (5) days of the notice, then the bureau may seize the vehicle and dispose of it as the bureau deems to be in the best interest of the State of Mississippi.

(5) On or before September 1 of each year, the Bureau of Fleet Management shall prepare and deliver to the Senate and House Appropriations Committees and the Joint Legislative Budget Committee a report containing any irregularities that it finds concerning purchases of state-owned vehicles.

(6) The Department of Public Safety and the Department of Wildlife, Fisheries and Parks may retain any vehicle seized pursuant to the forfeiture laws of this state, and the total number of vehicles assigned to each such agency shall not be reduced by the number of seized vehicles which the agency retains.

(7) The Bureau of Fleet Management, upon request, shall grant an exemption from the provisions of this section for only any vehicle assigned to a sworn officer of the Department of Public Safety and used in undercover operations when the bureau determines that compliance could jeopardize the life, health or safety of the sworn officer.

(8) The provisions of this section shall not apply to any state institution of higher learning.

(9) When making requests for authority to purchase, rent, lease or acquire vehicles as provided in subsection (3) of this section, agencies shall submit the lowest cost vehicle possible to carry out its intended use. Any such request shall be in writing from the agency head, certifying the vehicle requested is the lowest cost option available and acknowledging that any request contrary to this provision shall subject the agency head to penalties as provided in Sections 25-1-91, 31-7-55 and 31-7-57, where applicable. The Bureau of Fleet Management shall only approve the lowest cost vehicle, which in its estimation, will carry out the intended use. No agency may purchase any vehicle that the Bureau of Fleet Management has disapproved as being a higher cost option.

(10) No requests authorized under subsections (3) and (9) of this section shall be approved by the Bureau of Fleet Management if the requesting agency has not properly maintained in the fleet/asset reporting system all information required by the Bureau of Fleet Management. Agencies shall correct any inadequacies or discrepancies in the system noted by the Bureau of Fleet Management before the bureau may approve any requests.

**SECTION 7.** This act shall take effect and be in force from and after its passage.

PASSED BY THE HOUSE OF REPRESENTATIVES
January 25, 2018

Philip Gunn

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PASSED BY THE SENATE
March 5, 2018

Tate Reeves

PRESIDENT OF THE SENATE

APPROVED BY THE GOVERNOR

Phil Bryant

GOVERNOR

3/15/18
2:39pm