MISSISSIPPI LEGISLATURE REGULAR SESSION 2026

By: Representative Crudup To: State Affairs

HOUSE BILL NO. 1663

AN ACT TO CREATE SECTION 29-5-2.2, MISSISSIPPI CODE OF 1972, TO AUTHORIZE THE BUREAU OF BUILDING, GROUNDS AND REAL PROPERTY MANAGEMENT OF THE DEPARTMENT OF FINANCE AND ADMINISTRATION TO ACT AS THE CENTRAL LEASING AGENT FOR ALL STATE AGENCIES THAT NEED OFFICE SPACE IN ANY STATE OR NONSTATE-OWNED BUILDING AND TO PRESCRIBE THOSE RESPONSIBILITIES; TO AMEND SECTIONS 29-5-2, 37-3-5, 41-4-7, 41-73-27, 43-13-116, 43-33-717, 45-11-7, 49-19-5, 51-8-29, 51-8-31, 51-9-121, 51-11-11, 51-11-13, 51-13-111, 51-15-119, 55-24-9, 57-1-23, 59-5-35, 59-5-39, 59-7-211, 59-17-13, 65-1-8, 65-1-17, 69-7-109, 69-27-35, 71-3-85, 73-7-3, 73-17-7, 73-39-57, 99-18-13 AND 99-39-113, MISSISSIPPI CODE OF 1972, IN CONFORMITY THERETO; AND FOR RELATED PURPOSES.

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

SECTION 1. The following provision shall be codified as Section 29-5-2.2, Mississippi Code of 1972:

29-5-2.2. (1) In enacting this section, it is the intent of the Legislature that:

(a) The Bureau of Building, Grounds and Real Property Management of the Department of Finance and Administration (bureau) regulate and supervise the process of acquiring and granting leasehold interests in office space for state agencies;

(b) State agencies be housed, whenever possible, in state-owned buildings if office space is available; and

(c) If such office space is unavailable, state agencies be housed in the most efficient and cost-effective means possible in privately owned buildings.

(2) This section applies to all state agencies as defined in Section 31-7-1, including occupational licensure boards and excepting the military department, universities and community colleges. After January 1, 2027, any state agency shall:

(a) Obtain the bureau's approval before entering, renewing, or otherwise negotiating an agreement to lease, lease-purchase, or purchase a building for office space, from or to any individual or entity; and

(b) Upon the bureau's decision and consistent with subsection (4) of this section, any state agency shall execute and enter an agreement to lease office space in available state-owned buildings. The leases may be upon such conditions, for such terms, for such rentals and may contain any other provisions as determined by the bureau and the state agency involved to be appropriate and in the best interests of all concerned.

(3) In addition to the duties conferred under Section 29-5-2, the bureau shall have the following powers and duties:

(a) To conduct all lease solicitations on behalf of all state agencies for office space outside the buildings under the jurisdiction of the Department of Finance and Administration;

(b) Upon the effective date of this act, to confirm the needs of any state agency requesting office space, identify

appropriate locations for such office space, negotiate the lease, lease-purchase or purchase on the agency's behalf subject to appropriation, and maintain records of all such leases;

(c) To solicit and approve a master lease of privately owned buildings or parking facilities, or portions thereof, for the purpose of colocating and subleasing such space to state agencies or departments. Charges for such subleases shall be established by the department to cover master lease costs as well as all direct expenses required for the administration, operation, and maintenance of such master leased buildings and shall be considered pass-through costs and not rent for the purposes of Section 27-104-203;

(d) To adopt standards for the use and allocation of office space to state agencies. At a minimum, these standards shall provide specifications related to a state agency's workrooms or stations, private offices, conference rooms, reception areas, equipment rooms, vaults, storage areas, warehouses, support office spaces, and the necessary office space to ensure adequate and effective circulation within and access to all state agencies, including parking and traffic patterns;

(e) To identify opportunities for cost efficiencies by recommending the consolidation of more than one (1) state agency's office space within one (1) building if the bureau determines that such consolidation will result in lower rental costs for such agencies. In such cases of consolidation and colocation, the

Department of Finance and Administration may require agencies to share administrative and support staff and/or common spaces, including, but not limited to, conference rooms, break areas, and bathrooms; and

(f) To adopt a standard lease form to be used for leases of office space, buildings, structures, parking lots or grounds by state agencies from private individuals or entities. The standard lease form shall contain (i) all terms and conditions deemed necessary based on the type and purpose of the leased property; (ii) such terms and conditions that are as uniform as possible; and (iii) a lease term that expires on March 31, June 30, September 30 or December 31.

(4) All solicitations for space in privately owned buildings for statewide offices may be restricted to include only properties within the Capitol Complex Improvement District as originally created in Section 2 of House Bill No. 1226, 2017 Regular Session, and in all cases must allow consideration of such properties unless the agency or department requires an alternate location to effectively service its clients and/or interact with other agencies, departments or stakeholders located outside of the original Capitol Complex Improvement District boundaries. Where such solicitations include both properties within and outside of the original Capitol Complex District boundaries, award shall be made to the lowest and best proposal within the original Capitol Complex District boundaries unless such award would increase the

agency's or department's current rental costs, excluding moving expenses.

(5) Any state agency shall submit a written request for leased office space to the bureau one hundred eighty (180) days before the date the office space is needed. The agency's request shall list the following:

(a) Any information required from the agency under Section 27-104-7(c);

(b) Anticipated moving expenses;

(c) Positions to occupy the office space and the functions of each position by state employment grade;

(d) Special requirements and the function of those requirements; and

(e) Any other information that will affect the planning of the office space needs and the agency's efficient operation.

(6) The bureau shall use a Request for Lease Proposal (RLP) selection process when an agency requests to lease office space in a privately owned building when state-owned office space is not available. The bureau shall advertise such leasing needs through its website in accordance with Section 27-104-7 and shall provide RFP packages to any property owners or managers interested in submitting a proposal.

(7) If the agency requests the lease document proposed by the bureau to be reconsidered, the agency shall have an opportunity to appear before the Public Procurement Review Board

at the next regular meeting to explain its objections and any requested modification. After hearing from the agency, the board may modify the lease.

(8) All leases referred to in this section and all covenants and agreements contained therein shall be binding in all respects upon the parties thereto and their successors, and all the provisions thereof shall be enforceable by mandamus and other remedies provided by law. Nothing in this section shall be construed to terminate or amend existing leases.

(9) By December 1 of each year, the Department of Finance and Administration shall submit a report to the Chairmen of the Public Property Committees of the Mississippi Senate and the Mississippi House of Representatives containing information regarding any potential savings that could result from purchasing a privately owned building for the purpose of office space for a state agency.

SECTION 2. Section 29-5-2, Mississippi Code of 1972, is amended as follows:

29-5-2. The duties of the Department of Finance and Administration shall be as follows:

(a) (i) To exercise general supervision and care over and keep in good condition the following state property located in the City of Jackson: the New State Capitol Building, the Woolfolk State Office Building and Parking Garage, the Carroll Gartin Justice Building, the Walter Sillers Office Building and Parking

Garage, the War Veterans' Memorial Building, the Charlotte Capers Building, the William F. Winter Archives and History Building, the Mississippi Museum Complex, the Gulf, Mobile and Ohio Train Depot (GM&O Depot), the Old State Capitol Building, the Governor's Mansion, the Heber Ladner Building, the Robert E. Lee Office Building, the Robert E. Lee Parking Garage, the former Naval Reserve Center, 515 East Amite Street, 620 North Street, 660 North Street, 700 North State Street, 350 High Street, 401 North Lamar Street, 455 North Lamar Street, the State Records Center, the Robert G. Clark, Jr. Building, the Mississippi State Fairgrounds Complex, the former Central High Building, the Mississippi Workers' Compensation Commission Office Building, as well as all state-owned or leased buildings situated on seat of government property.

(ii) To exercise general supervision and care over and keep in good condition the Dr. Eldon Langston Bolton Building located in Biloxi, Mississippi.

(iii) To exercise general supervision and care over and keep in good condition the State Service Center, located at the intersection of U.S. Highway 49 and John Merl Tatum Industrial Drive in Hattiesburg, Mississippi.

(iv) To exercise general supervision and care over and keep in good condition any property purchased, constructed or otherwise acquired by the State of Mississippi for conducting state business and not specifically under the supervision and care

by any other state entity, but which is reasonably assumed the department would be responsible for such, as approved by the Public Procurement Review Board, including, but not limited to:

1. The National Aeronautics and Space Administration (NASA) Shared Services Center and Lockheed Martin Building at Stennis Space Center;

2. The Mississippi Sports Hall of Fame;

3. The Mississippi Crafts Center;

4. The Mississippi Children's Museum; and

5. The Mississippi Arts and Entertainment Center.

(b) Consistent with Section 29-5-2.2, to assign suitable office space for the various state departments, officers and employees who are provided with an office in any of the buildings under the jurisdiction or control of the Department of Finance and Administration. However, the assignment of space in the New Capitol Building shall be designated by duly passed resolution of the combined Senate Rules Committee and the House Management Committee, meeting as a joint committee, approved by the Lieutenant Governor and Speaker of the House of Representatives. A majority vote of the members of the Senate Rules Committee and a majority vote of the members of the House Management Committee shall be required on all actions taken, resolutions or reports adopted, and all other matters considered by the full combined committee on occasions when the Senate Rules

Committee and the House Management Committee shall meet as a full combined committee.

(c) To approve or disapprove with the concurrence of the Public Procurement Review Board, any lease or rental agreements by any state agency or department, including any state agency financed entirely by federal and special funds, for space outside the buildings under the jurisdiction of the Department of Finance and Administration, including space necessary for parking to be used by state employees who work in the Woolfolk Building, the Carroll Gartin Justice Building or the Walter Sillers Office Building. In no event shall any employee, officer, department, federally funded agency or bureau of the state be authorized to enter into a lease or rental agreement without prior approval of the Department of Finance and Administration and the Public Procurement Review Board.

The Department of Finance and Administration is authorized to use architects, engineers, building inspectors and other personnel for the purpose of making inspections as may be deemed necessary in carrying out its duties and maintaining the facilities.

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(d) To acquire by lease, lease-purchase agreement, or otherwise, as provided in Sections 27-104-107 and 29-5-2.2, and to assign *** * ***, by lease or sublease agreement from the *** * *** department, and with the concurrence of the Public Procurement Review Board, to any state agency or department, including any

state agency financed entirely by federal and special funds, appropriate office space in the buildings acquired.

(e) To solicit and approve or disapprove, notwithstanding any rule of law to the contrary, and with the concurrence of the Public Procurement Review Board, any lease, use or rental agreement for a charge or other consideration for space not exceeding three thousand (3,000) square feet in any individual building listed in subsection (a) of this section, with a private entry who will provide food and/or catering services for state employees, visitors and the general public.

The department shall select the entity using a competitive process which shall be publicly advertised. In addition to satisfying any other requirements for the Public Procurement Review Board's approval, the department must demonstrate that any agreement entered into under this section will neither result in a net cost to the state, nor impair or impede the function of state agencies at such location.

SECTION 3. Section 37-3-5, Mississippi Code of 1972, is amended as follows:

37-3-5. The State Department of Education is hereby charged with the execution of all laws relating to the administrative, supervisory and consultative services to the public schools and agricultural high schools of the school districts throughout the State of Mississippi. The State Department of Education is also authorized to grant property to public school districts and

agricultural high schools of the State of Mississippi, consistent with the provisions of Section 29-5-2.2.

Subject to the direction of the State Board of Education as provided by law, the administration, management and control of the department is hereby vested in the State Superintendent of Public Education, who shall be directly responsible for the rightful functioning thereof.

SECTION 4. Section 41-4-7, Mississippi Code of 1972, is amended as follows:

41-4-7. The State Board of Mental Health shall have the following powers and duties:

(a) To appoint, with the advice and consent of the Senate, a full-time Executive Director of the Department of Mental Health, who shall be employed by the board and shall serve as executive secretary to the board. The executive director shall serve for a term of four (4) years, consistent with the provisions of Section 7-1-35, Mississippi Code of 1972. The first director shall be a duly licensed physician with special interest and competence in psychiatry, and shall possess a minimum of three (3) years' experience in clinical and administrative psychiatry. Subsequent directors shall possess at least a master's degree or its equivalent, and shall possess at least ten (10) years' administrative experience in the field of mental health. The salary of the executive director shall be determined by the board;

(b) To appoint a Medical Director for the Department of Mental Health. The medical director shall provide clinical oversight in the implementation of evidence-based and best practices; provide clinical leadership in the integration of mental health, intellectual disability and addiction services with community partners in the public and private sectors; and provide oversight regarding standards of care. The medical director shall serve at the will and pleasure of the board, and will undergo an annual review of job performance and future service to the department;

(c) To establish and implement its state strategic plan;

(d) To develop a strategic plan for the development of services for persons with mental illness, persons with developmental disabilities and other clients of the public mental health system. Such strategic planning program shall require that the board, acting through the Strategic Planning and Best Practices Committee, perform the following functions respecting the delivery of services:

(i) Establish measures for determining the efficiency and effectiveness of the services specified in Section 41-4-1(2);

(ii) Conducting studies of community-based care in other jurisdictions to determine which services offered in these jurisdictions have the potential to provide the citizens of

Mississippi with more effective and efficient community-based care;

(iii) Evaluating the efficiency and effectiveness of the services specified in Section 41-4-1(2);

(iv) Recommending to the Legislature by January 1, 2014, any necessary additions, deletions or other changes necessary to the services specified in Section 41-4-1(2);

(v) Implementing by July 1, 2012, a system of performance measures for the services specified in Section 41-4-1(2);

(vi) Recommending to the Legislature any changes that the department believes are necessary to the current laws addressing civil commitment;

(vii) Conducting any other activities necessary to the evaluation and study of the services specified in Section 41-4-1(2);

(viii) Assisting in conducting all necessary strategic planning for the delivery of all other services of the department. Such planning shall be conducted so as to produce a single strategic plan for the services delivered by the public mental health system and shall establish appropriate mission statements, goals, objectives and performance indicators for all programs and services of the public mental health system. For services other than those specified in Section 41-4-1(2), the

committee shall recommend to the State Board of Mental Health a strategic plan that the board may adopt or modify;

(e) To set up state plans for the purpose of controlling and treating any and all forms of mental and emotional illness, alcoholism, drug misuse and developmental disabilities;

(f) [Repealed]

(g) To enter into contracts with any other state or federal agency, or with any private person, organization or group capable of contracting, if it finds such action to be in the public interest;

(h) To collect reasonable fees for its services; however, if it is determined that a person receiving services is unable to pay the total fee, the department shall collect no more than the amount such person is able to pay;

(i) To certify, coordinate and establish minimum standards and establish minimum required services, as specified in Section 41-4-1(2), for regional mental health and intellectual disability commissions and other community service providers for community or regional programs and services in adult mental health, children and youth mental health, intellectual disabilities, alcoholism, drug misuse, developmental disabilities, compulsive gambling, addictive disorders and related programs throughout the state. Such regional mental health and intellectual disability commissions and other community service providers shall, on or before July 1 of each year, submit an

annual operational plan to the State Department of Mental Health for approval or disapproval based on the minimum standards and minimum required services established by the department for certification and itemize the services specified in Section 41-4-1(2), including financial statements. As part of the annual operation plan required by this paragraph (i) submitted by any regional community mental health center or by any other reasonable certification deemed acceptable by the department, the community mental health center shall state those services specified in Section 41-4-1(2) that it will provide and also those services that it will not provide. If the department finds deficiencies in the plan of any regional commission or community service provider based on the minimum standards and minimum required services established for certification, the department shall give the regional commission or community service provider a six-month probationary period to bring its standards and services up to the established minimum standards and minimum required services. The regional commission or community service provider shall develop a sustainability business plan within thirty (30) days of being placed on probation, which shall be signed by all commissioners and shall include policies to address one or more of the following: the deficiencies in programmatic services, clinical service staff expectations, timely and appropriate billing, processes to obtain credentialing for staff, monthly reporting processes, third-party financial reporting and any other required

documentation as determined by the department. After the six-month probationary period, if the department determines that the regional commission or community service provider still does not meet the minimum standards and minimum required services established for certification, the department may remove the certification of the commission or provider and from and after July 1, 2011, the commission or provider shall be ineligible for state funds from Medicaid reimbursement or other funding sources for those services. However, the department shall not mandate a standard or service, or decertify a regional commission or community service provider for not meeting a standard or service, if the standard or service does not have funding appropriated by the Legislature or have a state, federal or local funding source identified by the department. No county shall be required to levy millage to provide a mandated standard or service above the minimum rate required by Section 41-19-39. After the six-month probationary period, the department may identify an appropriate community service provider to provide any core services in that county that are not provided by a community mental health center. However, the department shall not offer reimbursement or other accommodations to a community service provider of core services that were not offered to the decertified community mental health center for the same or similar services. The State Board of Mental Health shall promulgate rules and regulations necessary to

implement the provisions of this paragraph (i), in accordance with the Administrative Procedures Law (Section 25-43-1.101 et seq.);

(j) To establish and promulgate reasonable minimum standards for the construction and operation of state and all Department of Mental Health certified facilities, including reasonable minimum standards for the admission, diagnosis, care, treatment, transfer of patients and their records, and also including reasonable minimum standards for providing day care, outpatient care, emergency care, inpatient care and follow-up care, when such care is provided for persons with mental or emotional illness, an intellectual disability, alcoholism, drug misuse and developmental disabilities;

(k) To implement best practices for all services specified in Section 41-4-1(2), and to establish and implement all other services delivered by the Department of Mental Health. To carry out this responsibility, the board shall require the department to establish a division responsible for developing best practices based on a comprehensive analysis of the mental health environment to determine what the best practices for each service are. In developing best practices, the board shall consider the cost and benefits associated with each practice with a goal of implementing only those practices that are cost-effective practices for service delivery. Such best practices shall be utilized by the board in establishing performance standards and

evaluations of the community mental health centers' services required by paragraph (d) of this section;

(l) To assist community or regional programs consistent with the purposes of this chapter by making grants and contracts from available funds;

(m) To establish and collect reasonable fees for necessary inspection services incidental to certification or compliance;

(n) To accept gifts, trusts, bequests, grants, endowments or transfers of property of any kind;

(o) To receive monies coming to it by way of fees for services or by appropriations;

(p) To serve as the single state agency in receiving and administering any and all funds available from any source for the purpose of service delivery, training, research and education in regard to all forms of mental illness, intellectual disabilities, alcoholism, drug misuse and developmental disabilities, unless such funds are specifically designated to a particular agency or institution by the federal government, the Mississippi Legislature or any other grantor;

(q) To establish mental health holding centers for the purpose of providing short-term emergency mental health treatment, places for holding persons awaiting commitment proceedings or awaiting placement in a state mental health facility following commitment, and for diverting placement in a state mental health

facility. These mental health holding facilities shall be readily accessible, available statewide, and be in compliance with emergency services' minimum standards. They shall be comprehensive and available to triage and make appropriate clinical disposition, including the capability to access inpatient services or less restrictive alternatives, as needed, as determined by medical staff. Such facility shall have medical, nursing and behavioral services available on a twenty-four-hour-a-day basis. The board may provide for all or part of the costs of establishing and operating the holding centers in each district from such funds as may be appropriated to the board for such use, and may participate in any plan or agreement with any public or private entity under which the entity will provide all or part of the costs of establishing and operating a holding center in any district;

(r) To certify/license case managers, mental health therapists, intellectual disability therapists, mental health/intellectual disability program administrators, addiction counselors and others as deemed appropriate by the board. Persons already professionally licensed by another state board or agency are not required to be certified/licensed under this section by the Department of Mental Health. The department shall not use professional titles in its certification/licensure process for which there is an independent licensing procedure. Such certification/licensure shall be valid only in the state mental

health system, in programs funded and/or certified by the Department of Mental Health, and/or in programs certified/licensed by the State Department of Health that are operated by the state mental health system serving persons with mental illness, an intellectual disability, a developmental disability or addictions, and shall not be transferable;

(s) To develop formal mental health worker qualifications for regional mental health and intellectual disability commissions and other community service providers. The State Personnel Board shall develop and promulgate a recommended salary scale and career ladder for all regional mental health/intellectual disability center therapists and case managers who work directly with clients. The State Personnel Board shall also develop and promulgate a career ladder for all direct care workers employed by the State Department of Mental Health;

(t) The employees of the department shall be governed by personnel merit system rules and regulations, the same as other employees in state services;

(u) To establish such rules and regulations as may be necessary in carrying out the provisions of this chapter, including the establishment of a formal grievance procedure to investigate and attempt to resolve consumer complaints;

(v) To grant easements for roads, utilities and any other purpose it finds to be in the public interest;

(w) To survey statutory designations, building markers and the names given to mental health/intellectual disability facilities and proceedings in order to recommend deletion of obsolete and offensive terminology relative to the mental health/intellectual disability system. Based upon a recommendation of the executive director, the board shall have the authority to name/rename any facility operated under the auspices of the Department of Mental Health for the sole purpose of deleting such terminology;

(x) To ensure an effective case management system directed at persons who have been discharged from state and private psychiatric hospitals to ensure their continued well-being in the community;

(y) To develop formal service delivery standards designed to measure the quality of services delivered to community clients, as well as the timeliness of services to community clients provided by regional mental health/intellectual disability commissions and other community services providers;

(z) To establish regional state offices to provide mental health crisis intervention centers and services available throughout the state to be utilized on a case-by-case emergency basis. The regional services director, other staff and delivery systems shall meet the minimum standards of the Department of Mental Health;

(aa) To require performance contracts with community mental health/intellectual disability service providers to contain performance indicators to measure successful outcomes, including diversion of persons from inpatient psychiatric hospitals, rapid/timely response to emergency cases, client satisfaction with services and other relevant performance measures;

(bb) To enter into interagency agreements with other state agencies, school districts and other local entities as determined necessary by the department to ensure that local mental health service entities are fulfilling their responsibilities to the overall state plan for behavioral services;

(cc) To establish and maintain a toll-free grievance reporting telephone system for the receipt and referral for investigation of all complaints by clients of state and community mental health/intellectual disability facilities;

(dd) To establish a peer review/quality assurance evaluation system that assures that appropriate assessment, diagnosis and treatment is provided according to established professional criteria and guidelines;

(ee) To develop and implement state plans for the purpose of assisting with the care and treatment of persons with Alzheimer's disease and other dementia. This plan shall include education and training of service providers, caregivers in the home setting and others who deal with persons with Alzheimer's disease and other dementia, and development of adult day care,

family respite care and counseling programs to assist families who maintain persons with Alzheimer's disease and other dementia in the home setting. No agency shall be required to provide any services under this section until such time as sufficient funds have been appropriated or otherwise made available by the Legislature specifically for the purposes of the treatment of persons with Alzheimer's and other dementia;

(ff) Working with the advice and consent of the administration of Ellisville State School, to enter into negotiations with the Economic Development Authority of Jones County for the purpose of negotiating the possible exchange, lease or sale of lands owned by Ellisville State School to the Economic Development Authority of Jones County. It is the intent of the Mississippi Legislature that such negotiations shall ensure that the financial interest of the persons with an intellectual disability served by Ellisville State School will be held paramount in the course of these negotiations. The Legislature also recognizes the importance of economic development to the citizens of the State of Mississippi and Jones County, and encourages fairness to the Economic Development Authority of Jones County. Any negotiations proposed which would result in the recommendation for exchange, lease or sale of lands owned by Ellisville State School must have the approval of the State Board of Mental Health. The State Board of Mental Health may and has the final authority as to whether or not these negotiations result

in the exchange, lease or sale of the properties it currently holds in trust for persons with an intellectual disability served at Ellisville State School.

If the State Board of Mental Health authorizes the sale of lands owned by Ellisville State School, as provided for under this paragraph (ff), the monies derived from the sale shall be placed into a special fund that is created in the State Treasury to be known as the "Ellisville State School Client's Trust Fund." The principal of the trust fund shall remain inviolate and shall never be expended. Any interest earned on the principal may be expended solely for the benefits of clients served at Ellisville State School. The State Treasurer shall invest the monies of the trust fund in any of the investments authorized for the Mississippi Prepaid Affordable College Tuition Program under Section 37-155-9, and those investments shall be subject to the limitations prescribed by Section 37-155-9. Unexpended amounts remaining in the trust fund at the end of a fiscal year shall not lapse into the State General Fund, and any interest earned on amounts in the trust fund shall be deposited to the credit of the trust fund. The administration of Ellisville State School may use any interest earned on the principal of the trust fund, upon appropriation by the Legislature, as needed for services or facilities by the clients of Ellisville State School. Ellisville State School shall make known to the Legislature, through the Legislative Budget Committee and the respective Appropriations Committees of the

House and Senate, its proposed use of interest earned on the principal of the trust fund for any fiscal year in which it proposes to make expenditures thereof. The State Treasurer shall provide Ellisville State School with an annual report on the Ellisville State School Client's Trust Fund to indicate the total monies in the trust fund, interest earned during the year, expenses paid from the trust fund and such other related information.

Nothing in this section shall be construed as applying to or affecting mental health/intellectual disability services provided by hospitals as defined in Section 41-9-3(a), and/or their subsidiaries and divisions, which hospitals, subsidiaries and divisions are licensed and regulated by the Mississippi State Department of Health unless such hospitals, subsidiaries or divisions voluntarily request certification by the Mississippi State Department of Mental Health.

All new programs authorized under this section shall be subject to the availability of funds appropriated therefor by the Legislature;

(gg) Working with the advice and consent of the administration of Boswell Regional Center, to enter into negotiations with the Economic Development Authority of Simpson County for the purpose of negotiating the possible exchange, lease or sale of lands owned by Boswell Regional Center to the Economic Development Authority of Simpson County. It is the intent of the

Mississippi Legislature that such negotiations shall ensure that the financial interest of the persons with an intellectual disability served by Boswell Regional Center will be held paramount in the course of these negotiations. The Legislature also recognizes the importance of economic development to the citizens of the State of Mississippi and Simpson County, and encourages fairness to the Economic Development Authority of Simpson County. Any negotiations proposed which would result in the recommendation for exchange, lease or sale of lands owned by Boswell Regional Center must have the approval of the State Board of Mental Health. The State Board of Mental Health may and has the final authority as to whether or not these negotiations result in the exchange, lease or sale of the properties it currently holds in trust for persons with an intellectual disability served at Boswell Regional Center. In any such exchange, lease or sale of such lands owned by Boswell Regional Center, title to all minerals, oil and gas on such lands shall be reserved, together with the right of ingress and egress to remove same, whether such provisions be included in the terms of any such exchange, lease or sale or not.

If the State Board of Mental Health authorizes the sale of lands owned by Boswell Regional Center, as provided for under this paragraph (gg), the monies derived from the sale shall be placed into a special fund that is created in the State Treasury to be known as the "Boswell Regional Center Client's Trust Fund." The

principal of the trust fund shall remain inviolate and shall never be expended. Any earnings on the principal may be expended solely for the benefits of clients served at Boswell Regional Center. The State Treasurer shall invest the monies of the trust fund in any of the investments authorized for the Mississippi Prepaid Affordable College Tuition Program under Section 37-155-9, and those investments shall be subject to the limitations prescribed by Section 37-155-9. Unexpended amounts remaining in the trust fund at the end of a fiscal year shall not lapse into the State General Fund, and any earnings on amounts in the trust fund shall be deposited to the credit of the trust fund. The administration of Boswell Regional Center may use any earnings on the principal of the trust fund, upon appropriation by the Legislature, as needed for services or facilities by the clients of Boswell Regional Center. Boswell Regional Center shall make known to the Legislature, through the Legislative Budget Committee and the respective Appropriations Committees of the House and Senate, its proposed use of the earnings on the principal of the trust fund for any fiscal year in which it proposes to make expenditures thereof. The State Treasurer shall provide Boswell Regional Center with an annual report on the Boswell Regional Center Client's Trust Fund to indicate the total monies in the trust fund, interest and other income earned during the year, expenses paid from the trust fund and such other related information.

Nothing in this section shall be construed as applying to or affecting mental health/intellectual disability services provided by hospitals as defined in Section 41-9-3(a), and/or their subsidiaries and divisions, which hospitals, subsidiaries and divisions are licensed and regulated by the Mississippi State Department of Health unless such hospitals, subsidiaries or divisions voluntarily request certification by the Mississippi State Department of Mental Health.

All new programs authorized under this section shall be subject to the availability of funds appropriated therefor by the Legislature;

(hh) Notwithstanding any other section of the code, the Board of Mental Health shall be authorized to fingerprint and perform a criminal history record check on every employee or volunteer. Every employee and volunteer shall provide a valid current social security number and/or driver's license number which shall be furnished to conduct the criminal history record check. If no disqualifying record is identified at the state level, fingerprints shall be forwarded to the Federal Bureau of Investigation for a national criminal history record check;

(ii) The Department of Mental Health shall have the authority for the development of a consumer friendly single point of intake and referral system within its service areas for persons with mental illness, an intellectual disability, developmental disabilities or alcohol or substance abuse who need assistance

identifying or accessing appropriate services. The department will develop and implement a comprehensive evaluation procedure ensuring that, where appropriate, the affected person or their parent or legal guardian will be involved in the assessment and planning process. The department, as the point of intake and as service provider, shall have the authority to determine the appropriate institutional, hospital or community care setting for persons who have been diagnosed with mental illness, an intellectual disability, developmental disabilities and/or alcohol or substance abuse, and may provide for the least restrictive placement if the treating professional believes such a setting is appropriate, if the person affected or their parent or legal guardian wants such services, and if the department can do so with a reasonable modification of the program without creating a fundamental alteration of the program. The least restrictive setting could be an institution, hospital or community setting, based upon the needs of the affected person or their parent or legal guardian;

(jj) Consistent with Section 29-5-2.2, to have the * * * power and discretion to enter into, sign, execute and deliver long-term or multiyear leases of real and personal property owned by the Department of Mental Health to and from other state and federal agencies and private entities deemed to be in the public's best interest. Any monies derived from such leases shall be deposited into the funds of the Department of

Mental Health for its exclusive use. Leases to private entities shall be approved by the Department of Finance and Administration and all leases shall be filed with the Secretary of State;

(kk) To certify and establish minimum standards and minimum required services for county facilities used for housing, feeding and providing medical treatment for any person who has been involuntarily ordered admitted to a treatment center by a court of competent jurisdiction. The minimum standard for the initial assessment of those persons being housed in county facilities is for the assessment to be performed by a physician, preferably a psychiatrist, or by a nurse practitioner, preferably a psychiatric nurse practitioner. If the department finds deficiencies in any such county facility or its provider based on the minimum standards and minimum required services established for certification, the department shall give the county or its provider a six-month probationary period to bring its standards and services up to the established minimum standards and minimum required services. After the six-month probationary period, if the department determines that the county or its provider still does not meet the minimum standards and minimum required services, the department may remove the certification of the county or provider and require the county to contract with another county having a certified facility to hold those persons for that period of time pending transportation and admission to a state treatment facility. Any cost incurred by a county receiving an

involuntarily committed person from a county with a decertified holding facility shall be reimbursed by the home county to the receiving county; and

(ll) To provide orientation training to all new commissioners of regional commissions and annual training for all commissioners with continuing education regarding the Mississippi mental health system and services as developed by the State Department of Mental Health. Training shall be provided at the expense of the department except for travel expenses which shall be paid by the regional commission.

SECTION 5. Section 41-73-27, Mississippi Code of 1972, is amended as follows:

41-73-27. The authority is hereby granted all powers necessary or appropriate to carry out and effectuate its public and corporate purposes, including, but not limited to, the following:

(a) To have perpetual succession as a body politic and corporate and an independent instrumentality exercising essential public functions;

(b) To adopt, amend and repeal bylaws, rules and regulations, not inconsistent with this act, to regulate its affairs and to carry into effect the powers and purposes of the authority and conduct its business;

(c) To sue and be sued in its own name;

(d) To have an official seal and alter it at will;

(e) To maintain an office at such place or places within the state as it may designate;

(f) To monitor on a continuing basis the need for hospital equipment financing and hospital facilities financing at interest rates which are consistent with the needs of hospital institutions;

(g) To make and execute contracts and all other instruments necessary or convenient for the performance of its duties and the exercise of its powers and functions under this act;

(h) To employ architects, engineers, attorneys, inspectors, accountants and health care experts and financial advisors, and such other advisors, consultants and agents as may be necessary in its judgment, and to fix their compensation;

(i) To procure insurance against any loss in connection with its property and other assets, in such amounts and from such insurers as it may deem advisable, including the power to pay premiums on any such insurance;

(j) To procure insurance or guarantees from any public or private entities, including any department, agency or instrumentality of the United States of America, to secure payment (i) on a loan, lease or purchase payment owed by a participating hospital institution to the authority and (ii) of any bonds issued by the authority, including the power to pay premiums on any such insurance or guarantee;

(k) To procure letters of credit from any national or state banking association or other entity authorized to issue a letter of credit to secure the payment of any bonds issued by the authority or to secure the payment of any loan, lease or purchase payment owed by a participating hospital institution to the authority, including the power to pay the cost of obtaining such letter of credit;

(l) To receive and accept from any source aid or contributions of money, property, labor or other things of value to be held, used and applied to carry out the purposes of this act subject to the conditions upon which the grants or contributions are made, including, but not limited to, gifts or grants from any department, agency or instrumentality of the United States of America for any purpose consistent with the provisions of this act;

(m) To provide, or cause to be provided by a participating hospital institution, by acquisition, lease, fabrication, repair, restoration, reconditioning, refinancing or installation, one or more hospital facilities located within the state or items of hospital equipment to be located within a hospital facility in the state;

(n) To lease as lessor any hospital facility or any item of hospital equipment for such rentals and upon such terms and conditions as the authority may deem advisable and as are not in conflict with the provisions of this act;

(o) To sell for installment payments or otherwise, to option or contract for such sale, and to convey all or any part of any hospital facility or any item of hospital equipment for such price and upon such terms and conditions as the authority may deem advisable and as are not in conflict with the provisions of this act;

(p) To make contracts and incur liabilities, borrow money at such rates of interest as the authority may determine, issue its bonds in accordance with the provisions of this act, and secure any of its bonds or obligations by mortgage or pledge of all or any of its property, franchises and income or as otherwise provided in this act;

(q) To make secured or unsecured loans for the purpose of providing temporary or permanent financing or refinancing for the cost of any hospital facility or item of hospital equipment, including the retiring of any outstanding obligations with respect to such hospital facility or hospital equipment, and the reimbursement for the cost of any hospital facility or hospital equipment, purchased within two (2) years immediately preceding the date of the bond issue, made or given by any participating hospital institution for the cost of any hospital facility, hospital equipment, and to charge and collect interest on such loans for such loan payments and upon such terms and conditions as the authority may deem advisable and as are not in conflict with the provisions of this act;

(r) To invest and reinvest its funds and to take and hold property as security for the investment of such funds as provided in this act;

(s) To purchase, receive, lease (as lessee or lessor), or otherwise acquire, own, hold, improve, use or otherwise deal in and with, hospital facilities and equipment, or any interest therein, wherever situated, as the purposes of the authority shall require;

(t) Consistent with Section 29-5-2.2, to sell, convey, mortgage, pledge, assign, lease, exchange, transfer and otherwise dispose of all or any part of its property and assets;

(u) To the extent permitted under its contract with the holders of bonds of the authority, consent to any modification with respect to the rate of interest, time and payment of any installment of principal or interest, or any other term of any contract, loan, loan note, loan note commitment, contract, lease or agreement of any kind to which the authority is a party; and

(v) To assist participating hospital institutions to obtain funds for any purpose by utilizing the value of the receivables of such participating hospital institutions through the making of loans secured by such receivables, by purchasing such receivables, by utilizing such receivables to secure obligations of the authority, or through any combination of the foregoing.

SECTION 6. Section 43-13-116, Mississippi Code of 1972, is amended as follows:

43-13-116. (1) It shall be the duty of the Division of Medicaid to fully implement and carry out the administrative functions of determining the eligibility of those persons who qualify for medical assistance under Section 43-13-115.

(2) In determining Medicaid eligibility, the Division of Medicaid is authorized to enter into an agreement with the Secretary of the Department of Health and Human Services for the purpose of securing the transfer of eligibility information from the Social Security Administration on those individuals receiving supplemental security income benefits under the federal Social Security Act and any other information necessary in determining Medicaid eligibility. The Division of Medicaid is further empowered to enter into contractual arrangements with its fiscal agent or with the State Department of Human Services in securing electronic data processing support as may be necessary.

(3) Administrative hearings shall be available to any applicant who requests it because his or her claim of eligibility for services is denied or is not acted upon with reasonable promptness or by any recipient who requests it because he or she believes the agency has erroneously taken action to deny, reduce, or terminate benefits. The agency need not grant a hearing if the sole issue is a federal or state law requiring an automatic change adversely affecting some or all recipients. Eligibility

determinations that are made by other agencies and certified to the Division of Medicaid pursuant to Section 43-13-115 are not subject to the administrative hearing procedures of the Division of Medicaid but are subject to the administrative hearing procedures of the agency that determined eligibility.

(a) A request may be made either for a local regional office hearing or a state office hearing when the local regional office has made the initial decision that the claimant seeks to appeal or when the regional office has not acted with reasonable promptness in making a decision on a claim for eligibility or services. The only exception to requesting a local hearing is when the issue under appeal involves either (i) a disability or blindness denial, or termination, or (ii) a level of care denial or termination for a disabled child living at home. An appeal involving disability, blindness or level of care must be handled as a state level hearing. The decision from the local hearing may be appealed to the state office for a state hearing. A decision to deny, reduce or terminate benefits that is initially made at the state office may be appealed by requesting a state hearing.

(b) A request for a hearing, either state or local, must be made in writing by the claimant or claimant's legal representative. "Legal representative" includes the claimant's authorized representative, an attorney retained by the claimant or claimant's family to represent the claimant, a paralegal representative with a legal aid services, a parent of a minor

child if the claimant is a child, a legal guardian or conservator or an individual with power of attorney for the claimant. The claimant may also be represented by anyone that he or she so designates but must give the designation to the Medicaid regional office or state office in writing, if the person is not the legal representative, legal guardian, or authorized representative.

(c) The claimant may make a request for a hearing in person at the regional office but an oral request must be put into written form. Regional office staff will determine from the claimant if a local or state hearing is requested and assist the claimant in completing and signing the appropriate form. Regional office staff may forward a state hearing request to the appropriate division in the state office or the claimant may mail the form to the address listed on the form. The claimant may make a written request for a hearing by letter. A simple statement requesting a hearing that is signed by the claimant or legal representative is sufficient; however, if possible, the claimant should state the reason for the request. The letter may be mailed to the regional office or it may be mailed to the state office. If the letter does not specify the type of hearing desired, local or state, Medicaid staff will attempt to contact the claimant to determine the level of hearing desired. If contact cannot be made within three (3) days of receipt of the request, the request will be assumed to be for a local hearing and scheduled accordingly. A

hearing will not be scheduled until either a letter or the appropriate form is received by the regional or state office.

(d) When both members of a couple wish to appeal an action or inaction by the agency that affects both applications or cases similarly and arose from the same issue, one or both may file the request for hearing, both may present evidence at the hearing, and the agency's decision will be applicable to both. If both file a request for hearing, two (2) hearings will be registered but they will be conducted on the same day and in the same place, either consecutively or jointly, as the couple wishes. If they so desire, only one of the couple need attend the hearing.

(e) The procedure for administrative hearings shall be as follows:

(i) The claimant has thirty (30) days from the date the agency mails the appropriate notice to the claimant of its decision regarding eligibility, services, or benefits to request either a state or local hearing. This time period may be extended if the claimant can show good cause for not filing within thirty (30) days. Good cause includes, but may not be limited to, illness, failure to receive the notice, being out of state, or some other reasonable explanation. If good cause can be shown, a late request may be accepted provided the facts in the case remain the same. If a claimant's circumstances have changed or if good cause for filing a request beyond thirty (30) days is not shown, a

hearing request will not be accepted. If the claimant wishes to have eligibility reconsidered, he or she may reapply.

(ii) If a claimant or representative requests a hearing in writing during the advance notice period before benefits are reduced or terminated, benefits must be continued or reinstated to the benefit level in effect before the effective date of the adverse action. Benefits will continue at the original level until the final hearing decision is rendered. Any hearing requested after the advance notice period will not be accepted as a timely request in order for continuation of benefits to apply.

(iii) Upon receipt of a written request for a hearing, the request will be acknowledged in writing within twenty (20) days and a hearing scheduled. The claimant or representative will be given at least five (5) days' advance notice of the hearing date. The local and/or state level hearings will be held by telephone unless, at the hearing officer's discretion, it is determined that an in-person hearing is necessary. If a local hearing is requested, the regional office will notify the claimant or representative in writing of the time of the local hearing. If a state hearing is requested, the state office will notify the claimant or representative in writing of the time of the state hearing. If an in-person hearing is necessary, local hearings will be held at the regional office and state hearings will be

held at the state office unless other arrangements are necessitated by the claimant's inability to travel.

(iv) All persons attending a hearing will attend for the purpose of giving information on behalf of the claimant or rendering the claimant assistance in some other way, or for the purpose of representing the Division of Medicaid.

(v) A state or local hearing request may be withdrawn at any time before the scheduled hearing, or after the hearing is held but before a decision is rendered. The withdrawal must be in writing and signed by the claimant or representative. A hearing request will be considered abandoned if the claimant or representative fails to appear at a scheduled hearing without good cause. If no one appears for a hearing, the appropriate office will notify the claimant in writing that the hearing is dismissed unless good cause is shown for not attending. The proposed agency action will be taken on the case following failure to appear for a hearing if the action has not already been effected.

(vi) The claimant or his representative has the following rights in connection with a local or state hearing:

(A) The right to examine at a reasonable time before the date of the hearing and during the hearing the content of the claimant's case record;

(B) The right to have legal representation at the hearing and to bring witnesses;

(C) The right to produce documentary evidence and establish all facts and circumstances concerning eligibility, services, or benefits;

(D) The right to present an argument without undue interference;

(E) The right to question or refute any testimony or evidence including an opportunity to confront and cross-examine adverse witnesses.

(vii) When a request for a local hearing is received by the regional office or if the regional office is notified by the state office that a local hearing has been requested, the Medicaid specialist supervisor in the regional office will review the case record, reexamine the action taken on the case, and determine if policy and procedures have been followed. If any adjustments or corrections should be made, the Medicaid specialist supervisor will ensure that corrective action is taken. If the request for hearing was timely made such that continuation of benefits applies, the Medicaid specialist supervisor will ensure that benefits continue at the level before the proposed adverse action that is the subject of the appeal. The Medicaid specialist supervisor will also ensure that all needed information, verification, and evidence is in the case record for the hearing.

(viii) When a state hearing is requested that appeals the action or inaction of a regional office, the regional

office will prepare copies of the case record and forward it to the appropriate division in the state office no later than five (5) days after receipt of the request for a state hearing. The original case record will remain in the regional office. Either the original case record in the regional office or the copy forwarded to the state office will be available for inspection by the claimant or claimant's representative a reasonable time before the date of the hearing.

(ix) The Medicaid specialist supervisor will serve as the hearing officer for a local hearing unless the Medicaid specialist supervisor actually participated in the eligibility, benefits, or services decision under appeal, in which case the Medicaid specialist supervisor must appoint a Medicaid specialist in the regional office who did not actually participate in the decision under appeal to serve as hearing officer. The local hearing will be an informal proceeding in which the claimant or representative may present new or additional information, may question the action taken on the client's case, and will hear an explanation from agency staff as to the regulations and requirements that were applied to claimant's case in making the decision.

(x) After the hearing, the hearing officer will prepare a written summary of the hearing procedure and file it with the case record. The hearing officer will consider the facts presented at the local hearing in reaching a decision. The

claimant will be notified of the local hearing decision on the appropriate form that will state clearly the reason for the decision, the policy that governs the decision, the claimant's right to appeal the decision to the state office, and, if the original adverse action is upheld, the new effective date of the reduction or termination of benefits or services if continuation of benefits applied during the hearing process. The new effective date of the reduction or termination of benefits or services must be at the end of the fifteen-day advance notice period from the mailing date of the notice of hearing decision. The notice to claimant will be made part of the case record.

(xi) The claimant has the right to appeal a local hearing decision by requesting a state hearing in writing within fifteen (15) days of the mailing date of the notice of local hearing decision. The state hearing request should be made to the regional office. If benefits have been continued pending the local hearing process, then benefits will continue throughout the fifteen-day advance notice period for an adverse local hearing decision. If a state hearing is timely requested within the fifteen-day period, then benefits will continue pending the state hearing process. State hearings requested after the fifteen-day local hearing advance notice period will not be accepted unless the initial thirty-day period for filing a hearing request has not expired because the local hearing was held early, in which case a state hearing request will be accepted as timely within the number

of days remaining of the unexpired initial thirty-day period in addition to the fifteen-day time period. Continuation of benefits during the state hearing process, however, will only apply if the state hearing request is received within the fifteen-day advance notice period.

(xii) When a request for a state hearing is received in the regional office, the request will be made part of the case record and the regional office will prepare the case record and forward it to the appropriate division in the state office within five (5) days of receipt of the state hearing request. A request for a state hearing received in the state office will be forwarded to the regional office for inclusion in the case record and the regional office will prepare the case record and forward it to the appropriate division in the state office within five (5) days of receipt of the state hearing request.

(xiii) Upon receipt of the hearing record, an impartial hearing officer will be assigned to hear the case either by the Executive Director of the Division of Medicaid or his or her designee. Hearing officers will be individuals with appropriate expertise employed by the division and who have not been involved in any way with the action or decision on appeal in the case. The hearing officer will review the case record and if the review shows that an error was made in the action of the agency or in the interpretation of policy, or that a change of

policy has been made, the hearing officer will discuss these matters with the appropriate agency personnel and request that an appropriate adjustment be made. Appropriate agency personnel will discuss the matter with the claimant and if the claimant is agreeable to the adjustment of the claim, then agency personnel will request in writing dismissal of the hearing and the reason therefor, to be placed in the case record. If the hearing is to go forward, it shall be scheduled by the hearing officer in the manner set forth in subparagraph (iii) of this paragraph (e).

(xiv) In conducting the hearing, the state hearing officer will inform those present of the following:

(A) That the hearing will be recorded on tape and that a transcript of the proceedings will be typed for the record;

(B) The action taken by the agency which prompted the appeal;

(C) An explanation of the claimant's rights during the hearing as outlined in subparagraph (vi) of this paragraph (e);

(D) That the purpose of the hearing is for the claimant to express dissatisfaction and present additional information or evidence;

(E) That the case record is available for review by the claimant or representative during the hearing;

(F) That the final hearing decision will be rendered by the Executive Director of the Division of Medicaid on the basis of facts presented at the hearing and the case record and that the claimant will be notified by letter of the final decision.

(xv) During the hearing, the claimant and/or representative will be allowed an opportunity to make a full statement concerning the appeal and will be assisted, if necessary, in disclosing all information on which the claim is based. All persons representing the claimant and those representing the Division of Medicaid will have the opportunity to state all facts pertinent to the appeal. The hearing officer may recess or continue the hearing for a reasonable time should additional information or facts be required or if some change in the claimant's circumstances occurs during the hearing process which impacts the appeal. When all information has been presented, the hearing officer will close the hearing and stop the recorder.

(xvi) Immediately following the hearing the hearing tape will be transcribed and a copy of the transcription forwarded to the regional office for filing in the case record. As soon as possible, the hearing officer shall review the evidence and record of the proceedings, testimony, exhibits, and other supporting documents, prepare a written summary of the facts as the hearing officer finds them, and prepare a written

recommendation of action to be taken by the agency, citing appropriate policy and regulations that govern the recommendation. The decision cannot be based on any material, oral or written, not available to the claimant before or during the hearing. The hearing officer's recommendation will become part of the case record which will be submitted to the Executive Director of the Division of Medicaid for further review and decision.

(xvii) The Executive Director of the Division of Medicaid, upon review of the recommendation, proceedings and the record, may sustain the recommendation of the hearing officer, reject the same, or remand the matter to the hearing officer to take additional testimony and evidence, in which case, the hearing officer thereafter shall submit to the executive director a new recommendation. The executive director shall prepare a written decision summarizing the facts and identifying policies and regulations that support the decision, which shall be mailed to the claimant and the representative, with a copy to the regional office if appropriate, as soon as possible after submission of a recommendation by the hearing officer. The decision notice will specify any action to be taken by the agency, specify any revised eligibility dates or, if continuation of benefits applies, will notify the claimant of the new effective date of reduction or termination of benefits or services, which will be fifteen (15) days from the mailing date of the notice of decision. The decision rendered by the Executive Director of the Division of

Medicaid is final and binding. The claimant is entitled to seek judicial review in a court of proper jurisdiction.

(xviii) The Division of Medicaid must take final administrative action on a hearing, whether state or local, within ninety (90) days from the date of the initial request for a hearing.

(xix) A group hearing may be held for a number of claimants under the following circumstances:

(A) The Division of Medicaid may consolidate the cases and conduct a single group hearing when the only issue involved is one (1) of a single law or agency policy;

(B) The claimants may request a group hearing when there is one (1) issue of agency policy common to all of them.

In all group hearings, whether initiated by the Division of Medicaid or by the claimants, the policies governing fair hearings must be followed. Each claimant in a group hearing must be permitted to present his or her own case and be represented by his or her own representative, or to withdraw from the group hearing and have his or her appeal heard individually. As in individual hearings, the hearing will be conducted only on the issue being appealed, and each claimant will be expected to keep individual testimony within a reasonable time frame as a matter of consideration to the other claimants involved.

(xx) Any specific matter necessitating an administrative hearing not otherwise provided under this article or agency policy shall be afforded under the hearing procedures as outlined above. If the specific time frames of such a unique matter relating to requesting, granting, and concluding of the hearing is contrary to the time frames as set out in the hearing procedures above, the specific time frames will govern over the time frames as set out within these procedures.

(4) The Executive Director of the Division of Medicaid, with the approval of the Governor, shall be authorized to employ eligibility, technical, clerical and supportive staff as may be required in carrying out and fully implementing the determination of Medicaid eligibility, including conducting quality control reviews and the investigation of the improper receipt of medical assistance. Staffing needs will be set forth in the annual appropriation act for the division. Consistent with Section 29-5-2.2, additional office space as needed in performing eligibility, quality control and investigative functions shall be obtained by the division.

SECTION 7. Section 43-33-717, Mississippi Code of 1972, is amended as follows:

43-33-717. (1) The corporation shall have all the powers necessary or convenient to carry out and effectuate the purposes and provisions of this article, including, but without limiting the generality of the foregoing, the power:

(a) To make and alter bylaws for its organization and internal management;

(b) To sue and be sued, have a seal and alter the same at pleasure, and maintain an office at such place or places in the state as it may determine;

(c) To appoint officers, agents and employees, prescribe their duties and qualifications, and fix their compensation;

(d) Consistent with Section 29-5-2.2, to acquire real or personal property, or any interest therein, by purchase, exchange, gift, assignment, transfer, foreclosure, lease, condemnation or otherwise, including rights or easements; to hold, manage, operate or improve real or personal property; to sell, assign, exchange, lease, encumber, mortgage or otherwise dispose of any real or personal property, or any interest therein, or deed of trust or mortgage lien interest owned by it or under its control, custody or in its possession and release or relinquish any right, title, claim, lien, interest, easement or demand however acquired, including any equity or right of redemption in property foreclosed by it and to do any of the foregoing by public sale;

(e) To make and execute agreements, contracts and other instruments necessary or convenient to the exercise of the powers and functions of the corporation under this article;

(f) To employ or contract with architects, engineers, attorneys, accountants, financial experts and other advisors as may be necessary in its judgment and to fix and pay their compensation;

(g) To make and execute contracts for the administration, servicing or collection of any mortgage loan and pay the reasonable value of services rendered to the corporation pursuant to such contracts;

(h) To contract for the employment of a financial advisor, underwriting attorneys, trustees, paying agents, depositories or any consultants retained in connection with the issuance of any bonds or notes including refunding bonds or notes or dealing with the disposition of any proceeds thereof;

(i) To issue negotiable bonds and notes and to provide for the rights of the holders thereof;

(j) Subject to any agreement with bondholders or noteholders, to sell any mortgage loans at public or private sale at the fair market value for such a mortgage; and

(k) Subject to any agreement with bondholders and noteholders, to make, alter or repeal such rules and regulations with respect to the operations, properties and facilities of the corporation as are necessary to carry out its functions and duties in the administration of this article.

(2) The corporation shall also have the power:

(a) To make loans to mortgage lenders for the purpose of:

(i) Making housing development mortgage loans to qualified sponsors for low and moderate income rental or residential housing;

(ii) Making loans to low and moderate income purchasers of residential housing with preference to those who are displaced from adequate housing as a result of a major disaster, whether it be a man-made, technological or natural disaster, upon a declaration by the Governor that a major disaster exists in the state;

(b) To purchase from mortgage lenders any of the loans enumerated in subparagraphs (i) and (ii);

(c) To insure, reinsure or guarantee any of the types of loans enumerated in subparagraphs (i) and (ii);

(d) To make, in such amounts and upon such terms and conditions as the corporation shall approve, temporary loans, preconstruction loans, interim financing loans to any qualified sponsor and permanent financing to any qualified sponsor of multifamily housing.

(3) The corporation shall also have the power to make loans from funds not otherwise encumbered by pledge or indenture to low-and moderate-income persons for the following purposes:

(a) Purchasing, improving or rehabilitating existing residential housing and occupied by the owners;

(b) Making loans to qualified nonprofit sponsors, to local housing authorities and to owners of residential housing for the development, construction, purchase, rehabilitation, weatherization or maintenance of residential housing.

(4) Using funds not otherwise encumbered by pledge or indenture, the corporation may:

(a) Establish a rental assistance program;

(b) Provide such advisory consultation, training and educational services as will assist in the planning, construction, rehabilitation and operation of housing, including, but not limited to, assistance in community development and organization, home management and advisory services for residents, and in promotion of community organizations and local governments to assist in developing housing;

(c) Encourage research and demonstration projects to develop new and better methods for increasing the supply, types and financing of housing and to receive and accept contributions, grants or aid from any source, public or private, including, but not limited to, the United States and this state, for carrying out this purpose;

(d) Encourage and stimulate cooperatives and other forms of housing with tenant participation;

(e) Promote innovative programs for homeownership, including, but not limited to, lease-purchase programs,

employer-sponsored housing programs, tenant cooperatives and nonprofit associations;

(f) Design and support programs to address special needs groups including, but not limited to, handicapped, disabled, elderly, homeless, HIV/AIDS carriers and families with children;

(g) Develop a comprehensive plan for, and engage in a yearly planning process for, addressing the housing needs of low- and moderate-income persons in Mississippi.

(5) The corporation also has the power:

(a) To procure, or require the procurement of, insurance against any loss in connection with its operations, including, without limitation, the repayment of any mortgage loan or loans, in such amounts and from such insurers, including the federal government, as it may deem necessary or desirable, and to pay any premiums therefor;

(b) Subject to any agreement with bondholders or noteholders: (i) to renegotiate any loan in default; (ii) to waive any default or consent to the modification of the terms of any loan or agreement; (iii) to commence, prosecute and enforce a judgment in any action or proceeding, including, without limitation, a foreclosure proceeding, to protect or enforce any right conferred upon it by law, mortgage loan agreement, contract or other agreement; and (iv) in connection with any such proceeding, to bid for and purchase the property or acquire or take possession thereof and, in such event, complete, administer

and pay the principal of and interest on any obligations incurred in connection with such property and dispose of and otherwise deal with such property in such manner as the corporation may deem advisable to protect its interest therein;

(c) To fix, revise, charge and collect fees and other charges in connection with the making of loans, the purchasing of mortgage loans, and any other services rendered by the corporation;

(d) To arrange for guarantees of its bonds, notes or other obligations by the federal government or by any private insurer and to pay any premiums therefor;

(e) Notwithstanding any law to the contrary, but subject to any agreement with bondholders or noteholders, to invest money of the corporation not required for immediate use, including proceeds from the sale of any bonds or notes *** * ***:

(i) In obligations of any municipality or the state or the United States of America;

(ii) In obligations the principal and interest of which are guaranteed by the state or the United States of America;

(iii) In obligations of any corporation wholly owned by the United States of America;

(iv) In obligations of any corporation sponsored by the United States of America which are, or may become, eligible as collateral for advances to member banks as determined by the Board of Governors of the Federal Reserve System;

(v) In obligations of insurance firms or other corporations whose investments are rated "A" or better by recognized rating companies;

(vi) In certificates of deposit or time deposits of qualified depositories of the state as approved by the State Depository Commission, secured in such manner, if any, as the corporation shall determine;

(vii) In contracts for the purchase and sale of obligations of the type specified in * * * subparagraphs (i) through (v) above;

(viii) In repurchase agreements secured by obligations specified in * * * subparagraphs (i) through (v) above;

(ix) In money market funds, the assets of which are required to be invested in obligations specified in * * * subparagraphs (i) through (vi) above;

(f) Subject to any agreement with bondholders or noteholders, to purchase, and to agree to purchase, bonds or notes of the corporation at a price not exceeding: (i) if the bonds or notes are then redeemable, the redemption price then applicable plus accrued interest to the date of purchase; or (ii) if the bonds or notes are not then redeemable, the redemption price applicable on the first date after such purchase upon which the notes or bonds become subject to redemption at the option of the corporation plus accrued interest to the date of purchase;

(g) Subject to the provisions of this article, to contract for and to accept any gifts, grants or loans of funds or property or financial or other aid in any form from federal, state or local governments, private or public entities, or individuals;

(h) To enter into agreements or other transactions with the federal or state government, any agency thereof or any municipality in furtherance of the purposes of this article; to operate and administer loan programs of the federal government, the State of Mississippi, or any governmental agency thereof; and to operate and administer any program of housing assistance for persons and families of low or moderate income, however funded;

(i) To establish a benevolent loan fund, housing development fund, or such additional and further funds as may be necessary and desirable to accomplish any corporate purpose or to comply with the provisions of any agreement made by the corporation or any resolution approved by the corporation. The resolution establishing such a fund shall specify the source of monies from which it shall be funded and the purposes for which monies held in the fund shall be disbursed;

(j) In carrying out the provisions of this article, the corporation shall cooperate with the housing authorities created under Sections 43-33-1 through 43-33-69 and Sections 43-33-101 through 43-33-137, Mississippi Code of 1972;

(k) To accept letters of credit and other credit facilities necessary to make loans authorized herein to repay bonds or notes issued by the corporation;

(l) To do any and all things necessary or convenient to carry out its purposes and exercise the powers given and granted in this article.

SECTION 8. Section 45-11-7, Mississippi Code of 1972, is amended as follows:

45-11-7. (1) There is hereby created a State Fire Academy for the training and education of persons engaged in municipal, county and industrial fire protection. The Commissioner of Insurance shall appoint an Executive Director of the State Fire Academy who, along with his employees, shall be designated as a division of the Insurance Department. The executive director shall serve at the pleasure of the Commissioner of Insurance. The State Fire Academy shall be under the supervision and direction of the Executive Director of the State Fire Academy. State Fire Academy training programs for fire personnel shall be conducted at the academy with seminars to be conducted in other sections of the state as and when the State Fire Academy Advisory Board considers it necessary and advisable.

The Commissioner of Insurance may establish and charge reasonable fees for the training programs and other services provided by the academy. A record of all funds received pursuant

to this paragraph shall be maintained as is required for other monies pursuant to Section 45-11-5.

The Executive Director of the State Fire Academy is authorized and empowered to purchase, operate and maintain mobile firefighting equipment as he may find necessary and proper for the operation of the academy subject to approval of the Commissioner of Insurance. The equipment may be utilized wherever training sessions may be held at the discretion of the State Fire Academy Advisory Board.

(2) The Commissioner of Insurance shall be authorized to undertake appropriate action to accomplish and fulfill the purposes of the State Fire Academy, including the hiring of instructors and personnel, the lease and purchase of appropriate training equipment and to lease, purchase or construct suitable premises and quarters for conducting annual school and seminars, as the State Fire Academy Advisory Board may deem necessary and required for such purposes. Except for those contracts controlled by Section 29-5-2.2, any contract entered into under and by virtue of the provisions of this section shall first be submitted to and approved by the Public Procurement Review Board, and construction pursuant to the contract shall be under the supervision of the *** * *** Department of Finance and Administration.

(3) Vouchers for operating expense for the State Fire Academy shall be signed by the Executive Director of the State Fire Academy and payment thereof shall be made from such funds to

be derived from a special allocation from the State Fire Academy Fund as provided in Section 45-11-5.

(4) The State Fire Academy is hereby officially designated as the agency of this state to conduct training for fire personnel on a statewide basis in which members of all duly constituted fire departments may participate. This subsection shall not be construed to affect the authority of any fire department to conduct training for its own personnel.

(5) Each state agency, private agency or federal agency which provides training for the fire service shall coordinate such efforts with the State Fire Academy to prevent duplication of cost and to ensure standardization of training.

(6) The State Fire Academy shall present an appropriate certificate signifying the successful completion of its prescribed courses.

(7) National firefighter standards approved by the Mississippi Fire Personnel Minimum Standards and Certification Board shall be used as the basis for classroom instruction at the fire academy.

(8) The Commissioner of Insurance, Executive Director of the State Fire Academy, and the Mississippi Fire Personnel Minimum Standards and Certification Board shall coordinate all state programs related to fire department operations.

(9) The Commissioner of Insurance is hereby authorized and empowered to establish standard guidelines for the use of, and

accountability for, municipal and county fire protection funds distributed pursuant to the provisions of Sections 83-1-37 and 83-1-39, Mississippi Code of 1972. Such guidelines shall include requirements for the establishment of record keeping and reports to the Commissioner of Insurance by municipalities and counties relating to the receipt and expenditure of fire protection funds, the training of fire department personnel and the submission to the Commissioner of Insurance of other data reasonably related to local fire protection responsibilities which the Commissioner of Insurance deems necessary for the performance of the duties of the State Fire Academy Advisory Board.

(10) In order that the Commissioner of Insurance may more effectively execute the duties imposed upon him by subsection (9) of this section, there is hereby created within the State Fire Academy a Division of Fire Services Development. The division shall be staffed by a Fire Services Development Coordinator, appointed by the executive director of the academy from his current staff and by such other personnel as deemed by the Commissioner of Insurance. The division shall work with municipal and county fire coordinators to ensure effective implementation of guidelines established pursuant to subsection (9) of this section and shall serve in an advisory capacity for all aspects of fire service improvement. The Fire Service Coordinator shall annually notify the Department of Finance and Administration of those municipalities and counties which are not eligible to receive a

portion of fire protection fund distributions because of failure to comply with requirements imposed in Sections 83-1-37 and 83-1-39 as a prerequisite to receipt of such funds.

(11) There is created in the State Treasury a separate account to be known as the "State Fire Academy Construction Fund." The State Treasurer shall transfer on July 1, 1997, the sum of Six Hundred Seventy-five Thousand Dollars ($675,000.00) and on July 1, 1998, the sum of Six Hundred Seventy-five Thousand Dollars ($675,000.00) from the State Fire Academy Fund 3502 into the separate account created in this subsection. Monies in such account shall be expended solely, upon legislative appropriations, to defray expenses related to the construction of capital improvements project known as "Fire Safety and Education Building" and parking areas at the State Fire Academy by the Bureau of Building, Grounds and Real Property Management of the Office of General Services and to pay any indebtedness incurred to accomplish such construction. Funds not used after the completion of this capital improvements project shall be transferred back into State Fund 3502.

(12) From and after July 1, 2016, the expenses of this agency shall be defrayed by appropriation from the State General Fund and all user charges and fees authorized under this section shall be deposited into the State General Fund as authorized by law.

(13) From and after July 1, 2016, no state agency shall charge another state agency a fee, assessment, rent or other charge for services or resources received by authority of this section.

(14) The State Fire Academy is designated as an authorized training program for Emergency Medical Response and Emergency Medical Technician, and is authorized to provide initial and national continued competency program training, including Emergency Medical Responder, Emergency Medical Technician-Basic and Emergency Medical Technician-Advanced. The State Fire Academy shall be limited to a total of one hundred twenty (120) students per year for Emergency Medical Technician-Basic and Emergency Medical Technician-Advanced training; however, no limitation shall apply to the number of Emergency Medical Responder students. The training program established by the State Fire Academy shall meet or exceed the requirements of the most current training program national standard curriculum as developed by the United States Department of Transportation, National Highway Traffic Safety Administration, and shall also meet the minimum testing and certification requirements established by the State Board of Health. Successful graduates of the State Fire Academy Emergency Medical Response and Emergency Medical Technician training shall be eligible for certification by the State Board of Health for the training level achieved, provided that their training meets or exceeds the minimum testing and certification requirements

established by the State Board of Health for these respective skills, and such certification may be obtained in coordination with the State Board of Health pursuant to Chapters 59 and 60, Title 41, Mississippi Code of 1972.

SECTION 9. Section 49-19-5, Mississippi Code of 1972, is amended as follows:

49-19-5. The State Forestry Commission is hereby authorized and empowered to acquire and dispose of property of all kinds in accordance with the provisions of Sections 29-1-1 and 29-5-2.2, in order to discharge the duties as set forth in Section 49-19-3, and subsequent germane general laws of the State of Mississippi.

Notwithstanding any other provision of law, the commission, and county foresters who are employed by the commission, is authorized to electronically accept bids for timber sales.

Consistent with Section 29-5-2.2, the commission is also authorized to sell, rent, lease, and dispose of any property acquired by the commission *** * ***. All surplus property to be sold or disposed of shall be sold or disposed of in the manner provided by law for the sale or disposition of surplus property by other state agencies. Any funds received from the sale, rental or lease of any property herein authorized, to be acquired, shall be paid into the State Treasury to the credit of a special account, and the commission is hereby authorized to use this fund for the replacement, repairs, and upkeep of any property authorized to be acquired and owned under this section.

SECTION 10. Section 51-8-29, Mississippi Code of 1972, is amended as follows:

51-8-29. Districts created under this chapter shall have the powers set out in the creating resolution not inconsistent with the powers set forth in this chapter, and *** * *** consistent with Section 29-5-2.2, the power and authority to acquire, construct, reconstruct, improve, better, extend, consolidate, maintain and operate facilities and to contract with any municipality, person, firm or corporation for services and for a supply and distribution of water, for collection, transportation, treatment and/or disposal of sewage and for services required incident to the operation and maintenance of such systems. Except as provided elsewhere in this chapter, as long as any such district continues to furnish any of the services which it was authorized to furnish in and by the resolution by which it was created, it shall be the sole public corporation empowered to furnish such services within such district.

Any district created pursuant to the provisions of this chapter shall be vested with all the powers necessary and requisite for the accomplishment of the purpose for which such district is created. No enumeration of powers herein shall be construed to impair or limit any general grant of power herein contained nor to limit any such grant to a power or powers of the same class or classes as those enumerated. Such districts are

empowered to do all acts necessary, proper or convenient in the exercise of the powers granted under such sections.

SECTION 11. Section 51-8-31, Mississippi Code of 1972, is amended as follows:

51-8-31. Any district created pursuant to the provisions of this chapter, acting by and through the board of commissioners of such district as its governing authority, shall have, among others, the following powers:

(a) To sue and be sued;

(b) Consistent with Section 29-5-2.2, to acquire by purchase, gift, devise, lease or any other mode of acquisition, and to hold or dispose of, real and personal property of every kind within or without the district;

(c) To make and enter into contracts, conveyances, mortgages, deeds of trust, bonds, leases or contracts for financial advisory services;

(d) To incur debts, to borrow money, to issue negotiable bonds, and to provide for the rights of the holders thereof;

(e) To fix, maintain, collect and revise rates and charges for services rendered by or through the facilities of such district, which rates and charges shall not be subject to review or regulation by the Mississippi Public Service Commission except in those instances where a city operating similar services would be subject to regulation and review; however, said district shall

obtain a certificate of convenience and necessity from the Mississippi Public Service Commission for operating water and/or sewer systems;

(f) To pledge all or any part of its revenues to the payment of its obligations;

(g) To make such covenants in connection with the issuance of bonds or to secure the payment of bonds that a private business corporation can make under the general laws of the state;

(h) To use any right-of-way, public right-of-way, easement, or other similar property or property rights necessary or convenient in connection with the acquisition, improvement, operation or maintenance of the facilities of such district held by the state or any political subdivision thereof; however, the governing body of such political subdivision shall consent to such use;

(i) To enter into agreements with state and federal agencies for loans, grants, grants-in-aid, and other forms of assistance, including, but not limited to, participation in the sale and purchase of bonds;

(j) Consistent with Section 29-5-2.2, to acquire by purchase, lease, gift, or otherwise, any existing works and facilities providing services for which it was created, and any lands, rights, easements, franchises and other property, real and personal, necessary to the completion and operation of such system upon such terms and conditions as may be agreed upon, and, if

necessary as part of the acquisition price, to assume the payment of outstanding notes, bonds or other obligations upon such system; however, if any corporate agency owning such facilities desires to continue providing such services, the corporate agency shall so notify the district not later than ninety (90) days after the effective date of the creation of the district, and the district shall thereupon relinquish its right to provide such services until and unless the corporate agency elects otherwise or fails to adequately provide such services;

(k) To extend its services to areas beyond but within one (1) mile of the boundaries of such district; however, no such extension shall be made to areas already occupied by another corporate agency rendering the same service so long as such corporate agency desires to continue to serve such areas. Areas outside of the district desiring to be served which are beyond the one-mile limit must be brought into the district by annexation proceedings;

(l) To be deemed to have the same status as counties and municipalities with respect to payment of sales taxes on purchases made by such districts;

(m) To borrow funds for interim financing subject to receipt of funds as outlined in Section 51-8-35;

(n) To choose a location within the district as the central office of the district;

(o) To adopt a plan for management of the water resources of the district, provided that such plan first be submitted to and approved by the Commission on Natural Resources as consistent with the state water management plan or objectives;

(p) To hire such personnel and contract for such legal, technical, or other services as the board of commissioners deems necessary for the operation of the district and fulfillment of its water management objectives; and

(q) To secure connection to or participation in the services provided by the district, including the power to obtain mandatory or prohibitory injunctive relief; provided, however, that the authority of the board of commissioners shall not be exercised in conflict with the regulatory and enforcement authority of the Commission on Natural Resources.

SECTION 12. Section 51-9-121, Mississippi Code of 1972, is amended as follows:

51-9-121. The Pearl River Valley Water Supply District through its board of directors is hereby empowered:

(a) To impound overflow water and the surface water of the Pearl River or its tributaries within the project area, within or without this district at the place or places and in the amount as may be approved by the Office of Land and Water Resources of the State of Mississippi, by the construction of a dam or dams, reservoir or reservoirs, works, plants, and any other necessary or useful related facilities contemplated and described as a part of

the project within or without the district, to control, store, and preserve these waters, and to use, distribute, and sell the same. The Pearl River Valley Water Supply District is also empowered to construct or otherwise acquire within the project area all works, plants, or other facilities necessary or useful to the project for the purpose of processing the water and transporting it to cities and others for domestic, municipal, commercial, industrial, agricultural, and manufacturing purposes and is hereby given the power to control open channels for water delivery purposes.

(b) To acquire and develop any other available water necessary or useful to the project and to construct, acquire, and develop all facilities within the project area deemed necessary or useful with respect thereto.

(c) To prevent or aid in the prevention of damage to person or property from the waters of the Pearl River or any of its tributaries.

(d) To forest and reforest, and to aid in the foresting and reforesting of the project area, and to prevent and aid in the prevention of soil erosion and floods within this area; to control, store, and preserve within the boundaries of the project area the waters of the Pearl River or any of its tributaries, for irrigation of lands and for prevention of water pollution.

(e) Consistent with Section 29-5-2.2, to acquire by purchase, lease, gift, or in any other manner (otherwise than by condemnation) and to maintain, use, and operate all property of

any kind, real, personal, or mixed, or any interest therein within the project area, within or without the boundaries of the district, necessary for the project and convenient to the exercise of the powers, rights, privileges, and functions conferred upon the district by this article.

(f) To acquire by condemnation all property of any kind, real, personal, or mixed, or any interest therein within the project area not exceeding one-quarter (1/4) mile from the outside line of the three hundred (300) feet above sea level contour on each side of the Pearl River except as provided for rights-of-way under subsection (g) of this section, within or without the boundaries of the district, necessary for the project and the exercise of the powers, rights, privileges, and functions conferred upon the district by this article, according to the procedure provided by law for the condemnation of lands or other property taken for rights-of-way or other purposes by railroads, telephone, or telegraph companies. For the purposes of carrying out this article, the right of eminent domain of the district shall be superior and dominant to the right of eminent domain of railroad, telegraph, telephone, gas, power, and other companies or corporations, and shall be sufficient to enable the acquisition of county roads, state highways, or other public property in the project area and the acquisition, or relocation, of the above-mentioned utility property in the project area; however, Mississippi Highway 43 as presently located shall be kept open as

part of the state highway system. The cost of right-of-way purchases, rerouting, and elevating all other county maintained roads affected by construction of the reservoir shall be borne by the water district, and new construction shall be of equal quality as in roads existing as of May 5, 1958. 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,

(i) In acquiring lands, either by negotiation or condemnation, the district shall not acquire minerals or royalties within the project area; sand and gravel shall not be considered as minerals within the meaning of this section; * * *

(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 these products by reason of the inclusion of such lands or mineral interests within the project area, whether below or above the * * * waterline; but any such activities shall be under such reasonable regulations by the board of directors as will adequately protect the reservoir; and

(iii) In drilling and developing, these persons are hereby vested with a special right to have the mineral

interest integrated and their lands developed in such drilling unit or units as the State Oil and Gas Board shall establish after due consideration of the rights of all of the owners to be included in the drilling unit.

Moreover, where any site or plot of land is to be rented, leased, or sold to any person, firm, or corporation for the purpose of operating recreational facilities thereon for profit, then the board shall, by resolution, specify the terms and conditions of the sale, rental, or lease, and shall advertise for public bids thereon. When bids are received, they shall be publicly opened by the board, and the board shall thereupon determine the highest and best bid submitted and shall immediately notify the former owner of the site or plot of the amount, terms, and conditions of the highest and best bid. The former owner of the site or plot shall have the exclusive right at his option, for a period of thirty (30) days after the determination of the highest and best bid by the board, to rent, lease, or purchase said site or plot of land by meeting such highest and best bid and by complying with all terms and conditions of the renting, leasing, or sale as specified by the board. However, the board shall not in any event rent, lease, or sell to any former owner more land than was taken from the former owner for the construction of the project, or one-quarter (1/4) mile of shoreline, whichever is the lesser. If this option is not

exercised by the former owner within a period of thirty (30) days, then the board shall accept the highest and best bid submitted.

Any bona fide, resident householder, actually living or maintaining a residence on land taken by the district by condemnation shall have the right to repurchase not exceeding forty (40) acres of his former land or other available land from the board of directors for a price not exceeding the price paid for condemning his land.

(g) To require the necessary relocation of roads and highways, railroad, telephone, and telegraph lines and properties, electric power lines, gas pipelines and mains and facilities in the project area, or to require the anchoring or other protection of any of these, provided due compensation is first paid the owners thereof or agreement is had with the owners regarding the payment of the cost of the relocation. It is further provided that the district is hereby authorized to acquire easements or rights-of-way in or outside of the project area for the relocation of the roads, highways, railroad, telephone, and telegraph lines and properties, electric power lines, gas pipelines and mains and facilities, and to convey the same to the owners thereof in connection with the relocation as a part of the construction of the project; however, the directors of the district shall not close any public access road to the reservoir existing prior to the construction of the reservoir unless the board of supervisors of the county in which the road is located agrees.

(h) To overflow and inundate any public lands and public property, including sixteenth section lands and in-lieu lands, within the project area.

(i) Consistent with Section 29-5-2.2, to construct, extend, improve, maintain, and reconstruct, to cause to be constructed, extended, improved, maintained, and reconstructed, and to use and operate facilities of any kind within the project area necessary or convenient to the project and to the exercise of such powers, rights, privileges, and functions.

(j) To sue and be sued in its corporate name.

(k) To adopt, use, and alter a corporate seal.

(l) To make bylaws for the management and regulation of its affairs.

(m) To employ engineers, attorneys, and all necessary agents and employees to properly finance, construct, operate, and maintain the project and the plants and facilities of the district and carry out the provisions of this article, and to pay reasonable compensation for the services. For all services in connection with the issuance of bonds as provided in this article, the attorney's fee shall not exceed one-quarter of one percent (1/4 of 1%) of the principal amount of said bonds. For any other services, only reasonable compensation shall be paid for these services. The board shall have the right to employ a general manager, who shall, at the discretion of the board, have the power to employ and discharge employees. Without limiting the

generality of the foregoing, it may employ fiscal agents or advisors in connection with its financing program and in connection with the issuance of its bonds.

(n) To make contracts and to execute instruments necessary or convenient to the exercise of the powers, rights, privileges, and functions conferred upon it by this article.

(o) To make or cause to be made surveys and engineering investigations relating to the project, or related projects, for the information of the district to facilitate the accomplishment of the purposes for which it is created.

(p) To apply for and accept grants from the United States of America, or from any corporation or agency created or designated by the United States of America, and to ratify and accept applications heretofore or hereafter made by voluntary associations to these agencies for grants to construct, maintain, or operate any project or projects which hereafter may be undertaken or contemplated by the district.

(q) To do any other acts or things necessary or convenient to the exercising of the powers, rights, privileges, or functions conferred upon it by this article or any other law.

(r) To make contracts in the issuance of bonds that may be necessary to insure the marketability thereof.

(s) Consistent with Section 29-5-2.2, to enter into contracts with municipalities, corporations, districts, public agencies, political subdivisions of any kind, and others for any

services, facilities or commodities that the project may provide. The district is also authorized to contract with any municipality, corporation, or public agency for the rental, leasing, purchase, or operation of the water production, water filtration or purification, water supply and distributing facilities of the municipality, corporation, or public agency upon such consideration as the district and such entity may agree. Any such contract may be upon any terms and for any time as the parties may agree, and it may provide that it shall continue in effect until bonds specified therein and refunding bonds issued in lieu of these bonds are paid. Any contract with any political subdivision shall be binding upon said political subdivision according to its terms, and any municipalities or other political subdivisions shall have the power to enter into such contracts as in the discretion of the governing authorities thereof would be to the best interest of the people of the municipality or other political subdivision. These contracts may include, within the discretion of the governing authorities, a pledge of the full faith and credit of the political subdivisions for the performance thereof.

(t) To fix and collect charges and rates for any services, facilities, or commodities furnished by it in connection with the project, and to impose penalties for failure to pay these charges and rates when due.

(u) To operate and maintain within the project area with the consent of the governing body of any city or town located

within the district, any works, plants, or facilities of any city deemed necessary or convenient to the accomplishment of the purposes for which the district is created.

(v) Subject to the provisions of this article and Section 29-5-2.2, from time to time to lease, sell, or otherwise dispose of any property of any kind, real, personal, or mixed, or any interest therein within the project area or acquired outside the project area as authorized in this article, for the purpose of furthering the business of the district.

(w) When, in the opinion of the board of directors as shown by resolution duly passed, it shall not be necessary to the carrying on of the business of the district that the district own any lands acquired, then the board shall advertise these lands for sale to the highest and best bidder for cash and shall receive and publicly open the bids thereon. The board shall, by resolution, determine the highest and best bid submitted for such land and shall thereupon notify the former owner, his heirs or devisees, by registered mail of the land to be sold and the highest and best bid received therefor, and the former owner, or his heirs or devisees, shall have the exclusive right at his or their option for a period of thirty (30) days in which to meet the highest and best bid and to purchase the property.

(x) In addition to, or in conjunction with, any other powers and duties of the district arising under this chapter, to exercise those powers, duties and functions of a joint water

management district set forth in Sections 51-8-27 through 51-8-55, except the power of eminent domain under Section 51-8-33. Before exercising those powers and duties, the district must comply with the provisions of Sections 51-8-63 and 51-8-65. In exercising the functions of a joint water management district, the district may apply to the Environmental Quality Permit Board for delegation of those powers and duties as provided by Section 51-3-15, and to apply to the Mississippi Commission on Environmental Quality for delegation of those powers and duties provided by Section 51-3-21.

Any transaction regarding any property under the provisions of this section shall be executed in accordance with the provisions of Sections 29-1-1 and 29-5-2.2.

SECTION 13. Section 51-11-11, Mississippi Code of 1972, is amended as follows:

51-11-11. The district, through its board of directors, is hereby empowered:

(a) To develop in conjunction with the United States Army Corps of Engineers, United States Secretary of Agriculture, United States Secretary of Interior, or with such other federal or state agency as may be involved, including agencies of the State of Louisiana, plans for public works of improvement for the preservation, conservation, development, storage, and regulation of soil and waters within the Pearl River Basin, including the impoundage, diversion, flowage, and distribution of waters for industrial, irrigational, or potable water supplies, the

development of waters for navigation, and the prevention of floodwater damage; to enter into agreements with the United States of America, as represented by the United States Army Corps of Engineers or by such other federal agency as may be involved, to meet the requirements of local cooperation for flood control and navigation projects or other use of water as set out and authorized by public law of the United States, as now or hereafter amended.

(b) To sue and be sued in its corporate name.

(c) To adopt, use, and alter a corporate seal.

(d) To make bylaws for the management and regulation of its affairs.

(e) To make or cause to be made or to cooperate in making engineering surveys, feasibility studies, and cost-benefit estimates relating to the construction of dams, reservoirs, works, plants, or any other necessary related facilities for controlling, storing, using, and distributing, including to adjacent basins, the waters within the Pearl River Basin, or for the prevention of floodwater damage, for navigation therein, or for the use of its water resources for recreational purposes.

(f) Consistent with Section 29-5-2.2, to acquire by purchase, lease, gift, or in other manner, other than by condemnation, and to maintain, use, and operate any and all property of any kind, real, personal, or mixed, or any interest

therein within the boundaries of the district necessary for the purposes of the district.

(g) To make contracts and to execute instruments necessary to the exercise of the powers, rights, privileges, and functions conferred upon the district by this chapter.

(h) To apply for and accept grants or loans from the United States of America or from any corporation or agency created or designated by the United States of America, and to ratify and accept applications heretofore or hereafter made by voluntary associations to such agencies for grants to construct, maintain, or operate any project or projects which hereafter may be undertaken or contemplated by said district.

(i) To employ an executive vice president who shall act as general manager of the district and who may, at the discretion of the board of directors, have the power to employ and discharge employees. The board of directors shall have the right to employ engineers, attorneys, and all agents and employees necessary to the exercising of the powers, rights, privileges, and functions conferred upon the district by this chapter or any other law, or necessary to properly finance, construct, operate, and maintain the projects and plants of the district; and the district may pay reasonable compensation for such services. For all services in connection with the issuance of bonds, the attorney's fee shall be in accordance with the following:

1. On issues up to and including One Hundred Thousand Dollars ($100,000.00), the attorney's fee shall not exceed one percent (1%) thereof.

2. On issues over One Hundred Thousand Dollars ($100,000.00), and including Three Hundred Thousand Dollars ($300,000.00), the attorney's fee shall not exceed one-half percent (1/2%) thereof.

3. On issues over Three Hundred Thousand Dollars ($300,000.00), the attorney's fee shall not exceed one-fourth percent (1/4%) thereof; but for any issue the attorney shall receive a minimum fee of Two Hundred Fifty Dollars ($250.00). For any other services, reasonable compensation shall be paid.

(j) To do any and all other acts or things necessary to the exercising of the powers, rights, privileges, or functions conferred upon the district by this chapter or any other law.

SECTION 14. Section 51-11-13, Mississippi Code of 1972, is amended as follows:

51-11-13. The term "project" when used herein shall mean the general plans and purposes of the district, including without limitation physical properties and the location of reservoir or reservoirs, dam or dams, and related facilities, as approved by the district. The words "project area" shall mean any geographic area, as defined by a resolution of the board of directors of the district, located within (i) any county which is a member of the district or (ii) any portion of any other county which lies within

the watershed area of the Pearl River and its tributaries. The district, through its board of directors, shall have, in addition to and without limitation upon the powers enumerated in Section 51-11-11, the following powers:

(a) To impound and appropriate for beneficial use overflow water and the surface water of the Pearl River or its tributaries within the project area at the place or places and in the manner and amount as may be approved by the Department of Environmental Quality, by the construction of a dam or dams, reservoir or reservoirs, work or works, plants, and any other necessary related facilities contemplated and described as a part of the project; to construct a dam or dams, reservoir or reservoirs, work or works, and any other necessary related facilities contemplated and described as a part of the project to control flooding on the Pearl River and its tributaries; to control, store, and preserve these waters and to use, distribute, and sell them; to construct or otherwise acquire within the project area all works, plants, or other facilities necessary to the project for the purpose of soil conservation or for the purpose of processing water and transporting it to cities and other facilities for domestic, municipal, commercial, industrial, agricultural, and manufacturing purposes; and to control open channels for delivery purposes and water transportation; provided, however, a decision by the board of directors to have a dam or reservoir constructed within a county may be vetoed by an

affirmative vote of a majority of each of the boards of supervisors of any three (3) or more member counties of the district.

(b) To acquire and develop any other available water necessary to the project and to construct, acquire, and develop all facilities within the project area deemed necessary with respect thereto, including terminals.

(c) To forest and reforest, and to aid in the foresting and reforesting of, the project area and to prevent and aid in the prevention of soil erosion and flood within this area; to control, store, and preserve within the boundaries of the project area the waters of the Pearl River or any of its tributaries for irrigation of lands and for prevention of water pollution.

(d) To acquire by condemnation all property or interest in property of any kind, real, personal, or mixed, within the Pearl River Basin, whether within or without the project area, strictly and presently necessary for the projects and the exercise of the powers, rights, privileges, and functions conferred upon the district by this chapter, according to the procedure provided by law for the condemnation of lands or other property taken for rights-of-way or other purposes by railroads, telephone or telegraph companies and according to the provisions of Sections 29-1-1 and 29-5-2.2. No petition to condemn any property or any interest in any property shall be filed unless accompanied by a certificate by the United States Army Corps of Engineers or other

federal agency, or by a competent engineer or engineering firm, stating that the property being acquired is necessary for the purposes of an approved project of the district. For the purposes of this chapter, the right of eminent domain of the district within the project area shall be superior and dominant to the right of eminent domain of railroad, telegraph, telephone, gas, power, and other companies or corporations and shall be sufficient to enable the acquisition and relocation of county roads, state highways, or other public property within the project area. The cost of right-of-way purchases, rerouting, and elevating all other county-maintained roads affected by constructions shall be borne by the district, and new construction shall be of equal quality as in roads existing as of January 1, 1984. The county in which this work is done may assist in these costs if the board of supervisors so desires.

The amount and character of interest in land, other property, and easements to be acquired shall be determined by the board of directors on the basis of the proven needs of the particular project or projects involved. The board of directors shall make this determination in compliance with the provisions of Section 29-1-1. However,

(i) In acquiring lands, either by negotiation or condemnation, the district shall not acquire minerals or royalties; sand and gravel shall not be considered as minerals within the meaning of this section; however, where land is

condemned for easement purposes only, the sand and gravel contained therein or thereunder shall not be condemned, except to the extent necessary for these easement purposes, but may be acquired in full by negotiation; and

(ii) No person or persons owning the drilling rights or the right to share in production or mining shall be prevented from exploring, developing, or producing oil or gas or sand and gravel with necessary rights-of-way for ingress and egress, pipelines, and other means of transporting these products by reason of the inclusion of the lands or mineral interests or sand and gravel within the project area, whether below or above the waterline, but these activities shall be under reasonable regulations by the board of directors as will adequately protect the project.

(e) To require the necessary relocation of roads, highways, railroad, telephone, and telegraph lines and properties, electric power lines, gas pipelines and mains and facilities in the project area, or to require the anchoring or other protection of any of these, provided due compensation is first paid the owners thereof or agreement is had with the owners regarding the payment of the cost of such relocation. Further, the district is hereby authorized to acquire easements or rights-of-way in or outside of the project area for the relocation of roads, highways, railroad, telephone, and telegraph lines and properties, electric power lines, gas pipelines and mains and facilities, and to convey

them to the owners thereof in connection with relocation as a part of the construction of the project.

(f) To overflow and inundate any public lands and public property, including sixteenth section lands and lieu lands, within the project area.

(g) To construct, extend, improve, maintain, and reconstruct, to cause to be constructed, extended, improved, maintained, and reconstructed, and to use and operate all facilities of any kind within the project area necessary to the project.

(h) To employ engineers, attorneys, and all necessary agents and employees to properly finance, construct, operate, and maintain the project and the plants, and to pay reasonable compensation for these services.

(i) To make contracts in the issuance of bonds as may be necessary to insure the marketability thereof.

(j) Consistent with Section 29-5-2.2, to enter into contracts with municipalities, corporations, districts, public agencies, political subdivisions of any kind, and others for any services, facilities, or commodities which the project may provide; to contract with any municipality, corporation or public agency for the rental, leasing, purchase, or operation of water production, water filtration or purification, water supply and distributing facilities of such upon consideration as the district and the entity may agree. Any contract may be upon any terms and

for any time as the parties may agree, may provide that it shall continue in effect until bonds specified therein, refunding bonds issued in lieu of these bonds, and all obligations are paid. Any contract with any political subdivision shall be binding upon the political subdivisions according to its terms, and the municipalities or other political subdivisions shall have the power to enter into these contracts as in the discretion of the governing authorities thereof would be to the best interest of the people of the municipality or other political subdivision. The contracts may include within the discretion of the governing authorities a pledge of the full faith and credit of the political subdivisions for the performance thereof.

(k) To fix and collect charges and rates for any service, facilities, or commodities furnished by it in connection with the project and to impose penalties for failure to pay these charges and rates when due.

(l) To operate and maintain within the project area, with the consent of the governing body of any located within the district, any works, plants, or facilities deemed necessary to the accomplishment of the purposes for which the district is created.

(m) Subject to the provisions of this chapter, from time to time to lease, sell, or otherwise lawfully dispose of property of any kind, real, personal, or mixed, or any interest therein within the project area or acquired outside the project

area as authorized in this chapter, for the purpose of furthering the business of the district.

(n) When, in the opinion of the board of directors as shown by resolution duly passed, it shall not be necessary to the carrying on of the business of the district that the district own any lands acquired, the board shall advertise these lands for sale to the highest and best bidder for cash, and shall receive and publicly open the bids thereon.

(o) In the purchase of or in the entering into of all lease purchase agreements for supplies, equipment, heavy equipment, and the like, the directors shall in all instances comply with the provisions of law pertaining to public purchases by public bids on such supplies and equipment.

(p) In addition to, or in conjunction with, any other powers and duties of the district arising under this chapter, to exercise those powers, duties and functions of a joint water management district set forth in Sections 51-8-27 through 51-8-55, except the power of eminent domain under Section 51-8-33. Before exercising those powers and duties, the district must comply with the provisions of Sections 51-8-63 and 51-8-65. In exercising the functions of a joint water management district, the district may apply to the Environmental Quality Permit Board for delegation of those powers and duties as provided by Section 51-3-15, and to apply to the Mississippi Commission on Environmental Quality for delegation of those powers and duties provided by Section 51-3-21.

(q) To create a flood control district within the Pearl River Basin Development District as provided under Sections 51-11-53 through 51-11-85.

SECTION 15. Section 51-13-111, Mississippi Code of 1972, is amended as follows:

51-13-111. The Tombigbee River Valley Water Management District through its board of directors is hereby empowered:

(a) To develop, in conjunction with the United States Army Corps of Engineers, United States Secretary of Agriculture, or with the head of any other federal or state agency as may be involved, plans for public works of improvement for the prevention of floodwater damage, or the conservation, development, navigation, utilization and disposal of water, including the impoundment, diversion, flowage and distribution of waters for beneficial use as defined in Chapter 3 of this title.

To enter into agreements with the United States of America, as represented by the United States Army Corps of Engineers, to meet the requirements of local cooperation for flood control and navigation projects as set out in House Document No. 167, 84th Congress, First Session, as authorized by Public Law 85-500, 85th Congress, dated July 3, 1958, as amended, and House Document No. 486, 79th Congress, Second Session, as approved by Public Law 525, 79th Congress, as amended.

(b) To impound overflow water and the surface water of the Tombigbee River or its tributaries within the project area,

within or without the district, at the place or places and in the amount as may be approved by the Office of Land and Water Resources of the State of Mississippi, by the construction of a dam or dams, reservoir or reservoirs, work or works, plants and any other necessary or useful related facilities contemplated and described as a part of the project, within or without the district, to control, store and preserve these waters, and to use, distribute, and sell them, to construct or otherwise acquire within the project area all works, plants, or other facilities necessary or useful to the project for processing the water and transporting it to cities and other facilities for domestic, municipal, commercial, industrial, agricultural and manufacturing purposes, and is hereby given the power to control open channels for water delivery purposes and water transportation.

(c) To acquire and develop any other available water necessary or useful to the project and to construct, acquire and develop all facilities within the project area deemed necessary or useful with respect thereto, including terminals.

(d) To forest and reforest, and to aid in the foresting and reforesting of the project area, and to prevent and to aid in the prevention of soil erosion and flood within the area; to control, store, and preserve within the boundaries of the project area the waters of the Tombigbee River or any of its tributaries for irrigation of lands and for prevention of water pollution.

(e) To acquire by condemnation all property of any kind, real, personal, or mixed, or any interest therein, within or without the boundaries of the district, necessary for the projects and the exercise of the powers, rights, privileges and functions conferred upon the district by this article, according to the procedure provided by law for the condemnation of lands or other property taken for rights-of-way or other purposes by railroads, telephone, or telegraph companies, and according to the provisions of Sections 29-1-1 and 29-5-2.2. For the purposes of this article the right of eminent domain of the district shall be superior and dominant to the right of eminent domain of railroad, telegraph, telephone, gas, power and other companies or corporations and shall be sufficient to enable the acquisition of county roads, state highways, or other public property in the project area, and the acquisition or relocation of this property in the project area. The cost of right-of-way purchases, rerouting and elevating all other county-maintained roads affected by construction shall be borne by the water management district, and new construction shall be of equal quality as in roads existing as of May 1, 1962. The county in which the work is done may assist in these costs if the board of supervisors desires.

The amount and character of interest in land, other property, and easements 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,

(i) In acquiring lands, either by negotiation or condemnation, the district shall not acquire minerals or royalties within the project area; 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 these products by reason of the inclusion of the lands or mineral interests within the project area, whether below or above the waterline, but any activities shall be under reasonable regulations by the board of directors that will adequately protect the project; and

(iii) In drilling and developing, these persons are hereby vested with a special right to have mineral interests integrated and their lands developed in the drilling unit or units that the State Oil and Gas Board shall establish after due consideration of the rights of all owners to be included in the drilling unit.

Moreover, when any site or plot of land is to be sold to any person, firm, or corporation for the purpose of operating recreational facilities thereon for profit, the board shall, by resolution, specify the terms and conditions of the sale and shall

advertise for public bids thereon. When these bids are received, they shall be publicly opened by the board, and the board shall thereupon determine the highest and best bid submitted and shall immediately notify the former owner of the site or plot of the amount, terms, and conditions of the highest and best bid. The former owner of the site or plot shall have the exclusive right at his option, for a period of thirty (30) days after written notice is received by the landowner of the determination of the highest and best bid by the board, to purchase the site or plot of land by meeting the highest and best bid and by complying with all terms and conditions of the sale as specified by the board. However, the board shall not sell to any former owner more land than was taken from the former owner for the construction of the project, or one-quarter (1/4) mile of shoreline, whichever shall be the lesser. If this option is not exercised by the former owner within a period of thirty (30) days, the board shall accept the highest and best bid submitted.

Any bona fide resident householder actually living or maintaining a residence on land taken by the district by condemnation shall have the right to repurchase his former land from the board of directors for a price not exceeding the price paid for condemning his land, plus any permanent improvements.

In addition and notwithstanding any other provision in this section to the contrary, the board may lease or rent all or any portion of any property that it owns to any person, firm, or

corporation for the purpose of operating recreational facilities for profit or not for profit or for any other public purpose provided the land is open for the use of the general public or is otherwise used for the public benefit and upon any other terms and conditions as the board may determine. The leasing or renting of all or any portion of any such land upon said conditions shall require a resolution duly adopted by the board and shall be exempt from any bid requirements in this section.

(f) To require the necessary relocation of roads and highways, railroad, telephone, and telegraph lines and properties, electric power lines, gas pipelines and mains and facilities in the project area, or to require the anchoring or other protection of any of these, provided due compensation is first paid the owners thereof or agreement is had with the owners regarding the payment of the cost of relocation. Further, the district is hereby authorized to acquire easements or rights-of-way in or outside of the project area for the relocation of roads, highways, railroad, telephone, and telegraph lines and properties, electric power lines, gas pipelines and mains and facilities, and to convey them to the owners thereof in connection with the relocation as a part of the construction of the project. However, the directors of the district shall not close any public access road to the project existing prior to the construction of the reservoir unless the board of supervisors of the county in which the road is located agrees thereto.

(g) To overflow and inundate any public lands and public property, including sixteenth section lands and in lieu lands, within the project area.

(h) Consistent with Section 29-5-2.2, to construct, extend, improve, maintain and reconstruct, to cause to be constructed, extended, improved, maintained and reconstructed, and to use and operate all facilities of any kind within the project area necessary or convenient to the project and to the exercise of powers, rights, privileges and functions.

(i) To sue and be sued in its corporate name.

(j) To adopt, use, and alter a corporate seal.

(k) To make bylaws for the management and regulation of its affairs.

(l) To employ engineers, attorneys, and all necessary agents and employees to properly finance, construct, operate, and maintain the project and the plants and to pay reasonable compensation for these services; for all services in connection with the issuance of bonds as provided in this article, the attorney's fee shall not exceed one-quarter of one percent (1/4 of 1%) of the principal amount of these bonds. For any other services, only reasonable compensation shall be paid for these services. The board shall have the right to employ a general manager, who shall, at the discretion of the board, have the power to employ and discharge employees. Without limiting the generality of the foregoing, it may employ fiscal agents or

advisors in connection with its financing program and in connection with the issuance of its bonds.

(m) To make contracts and to execute instruments necessary or convenient to the exercise of the powers, rights, privileges, and functions conferred upon it by this article.

(n) To make or cause to be made surveys and engineering investigations relating to the project, or related projects, for the information of the district to facilitate the accomplishment of the purposes for which it is created.

(o) To apply for and accept grants from the United States of America, or from any corporation or agency created or designated by the United States of America, and to ratify and accept applications heretofore or hereafter made by voluntary associations to these agencies for grants to construct, maintain or operate any project or projects which hereafter may be undertaken or contemplated by the district.

(p) To do any other acts or things necessary, requisite, or convenient to the exercising of the powers, rights, privileges or functions conferred upon it by this article or any other law.

(q) To make contracts in the issuance of bonds that may be necessary to insure the marketability thereof.

(r) Consistent with Section 29-5-2.2, to enter into contracts with municipalities, corporations, districts, public agencies, political subdivisions of any kind, and others for any

services, facilities or commodities that the project may provide. The district is also authorized to contract with any municipality, corporation, or public agency for the rental, leasing, purchase, or operation of the water production, water filtration or purification, water supply and distributing facilities of the municipality, corporation, or public agency upon consideration as the district and entity may agree. Any contract may be upon any terms and for any time as the parties may agree, and it may provide that it shall continue in effect until bonds specified therein, refunding bonds issued in lieu of these bonds, and all obligations are paid. Any contract with any political subdivision shall be binding upon these political subdivisions according to its terms, and the municipalities or other political subdivisions shall have the power to enter into these contracts as in the discretion of the governing authorities thereof would be to the best interest of the people of the municipality or other political subdivision. These contracts may include, within the discretion of the governing authorities, a pledge of the full faith and credit of the political subdivisions for the performance thereof.

(s) To fix and collect charges and rates for any services, facilities or commodities furnished by it in connection with the project, and to impose penalties for failure to pay these charges and rates when due.

(t) To operate and maintain within the project area, with the consent of the governing body of any city or town located

within the district, any works, plants or facilities of any city deemed necessary or convenient to the accomplishment of the purposes for which the district is created.

(u) Subject to the provisions of this article and Section 29-5-2.2, from time to time to lease, sell, or otherwise lawfully dispose of any property of any kind, real, personal, or mixed, or any interest therein within the project area or acquired outside the project area as authorized in this article, for the purpose of furthering the business of the district.

(v) When, in the opinion of the board of directors as shown by resolution duly passed, it shall not be necessary to the carrying on of the business of the district that the district own any lands acquired, the board shall advertise these lands for sale to the highest and best bidder for cash and shall receive and publicly open the bids thereon. The board shall, by resolution, determine the highest and best bid submitted for the land and shall thereupon notify the former owner, his/her heirs or devisees, by registered mail of the land to be sold and the highest and best bid received therefor, and the former owner, or his/her heirs or devisees, shall have the exclusive right at his/her or their option for a period of thirty (30) days in which to meet such highest and best bid and to purchase the property.

(i) The board may transfer title to that certain property known as the Trace State Park in Pontotoc County to the Department of Environmental Quality; provided, however, that any

of the property that is under current lease shall not be included in the transfer. Such transfer of title shall require a resolution duly adopted by the board and by the Commission on Environmental Quality and shall be exempt from any bid requirements herein. In addition, the board may transfer title to that certain property known as the Elvis Presley Park in Lee County to Lee County, Mississippi, upon the terms and conditions as it may determine. The transfer of title shall require a resolution duly adopted by the board and shall be exempt from any bid requirement in this section. In addition, the board may transfer title to all or any portion of that certain property known as the Elvis Presley Park in Lee County to the Mississippi Department of Wildlife, Fisheries and Parks upon the terms and conditions as it may determine, including, but not limited to, authorizing the board to pay the sum of Two Hundred Thousand Dollars ($200,000.00) to the Mississippi Department of Wildlife, Fisheries and Parks at the time of the transfer with such funds to be used by the Mississippi Department of Wildlife, Fisheries and Parks for the construction of an office building on the Elvis Presley Park for use by the Mississippi Department of Wildlife, Fisheries and Parks. Such transfer of title and the payment of such sum of money shall require a resolution duly adopted by the board and by the Mississippi Department of Wildlife, Fisheries and Parks and shall be exempt from any bid requirement in this section.

(ii) The board may transfer title to the property known as Kemper Lake in Kemper County, Mississippi, to the Kemper County Board of Supervisors, upon the terms and conditions as it may determine, including, but not limited to, authorizing the board to pay the sum of Forty Thousand Dollars ($40,000.00) for costs associated with pavilion repairs and improvements, to the Kemper County Board of Supervisors at the time of the transfer. Such transfer of title and the payment of such sum of money shall require a resolution duly adopted by the board and shall be exempt from any bid requirement in this section.

In addition, upon the transfer of title of the property known as Kemper Lake from the board to the Kemper County Board of Supervisors, the Kemper County Board of Supervisors may transfer title to all or any portion of the property known as Kemper Lake in Kemper County, Mississippi, to any water management district that meets certain criteria as prescribed by the Kemper County Board of Supervisors, upon the terms and conditions as it may determine. Such transfer of title shall require a resolution duly adopted by the Kemper County Board of Supervisors and by such water management district, and shall be exempt from any bid requirement in this section.

(w) To prevent or aid in the prevention of damages to persons or property from the waters of the Tombigbee River or any of its tributaries.

(x) Consistent with Section 29-5-2.2, to acquire by purchase, lease, gift or in any other manner (otherwise than by condemnation) and to maintain, use, and operate all property of any kind, real, personal, or mixed, or any interest therein within the project area, within or without the boundaries of the district, necessary for the project and convenient to the exercise of the powers, rights, privileges and functions conferred upon the district by this article.

(y) In the purchase of or in the entering into of all lease-purchase agreements for supplies, equipment, heavy equipment, and the like, the directors shall in all instances comply with the provisions of law pertaining to public purchases by public bids on these supplies and equipment.

(z) In addition to, or in conjunction with, any other powers and duties of the district arising under this chapter, to exercise those powers, duties and functions of a joint water management district set forth in Sections 51-8-27 through 51-8-55, except the power of eminent domain under Section 51-8-33. Before exercising those powers and duties, the district must comply with the provisions of Sections 51-8-63 and 51-8-65. In exercising the functions of a joint water management district, the district may apply to the Environmental Quality Permit Board for delegation of those powers and duties as provided by Section 51-3-15, and to apply to the Mississippi Commission on Environmental Quality for delegation of those powers and duties provided by Section 51-3-21.

SECTION 16. Section 51-15-119, Mississippi Code of 1972, is amended as follows:

51-15-119. (1) The Pat Harrison Waterway District through its board of directors is hereby empowered:

(a) To develop in conjunction with the United States Army Corps of Engineers, United States Secretary of Agriculture, or with the head of any other federal or state agency as may be involved, plans for public works of improvement to make navigable or for the prevention of flood water damage, or the conservation, development, recreation, utilization and disposal of water, including the impoundment, diversion, flowage and distribution of waters for beneficial use as defined in Article 1 of this chapter, and in connection with the Oktibbeha River Basin project as authorized under Public Law 874, 87th Congress, October 23, 1962, and substantially in accordance with the recommendation of the Chief of Engineers in House Document 549 of the 87th Congress.

(b) To impound overflow water and the surface water of any streams in the Pat Harrison Waterway District or its tributaries within the project area, within or without the district, at the place or places and in the amount as may be approved by the Office of Land and Water Resources of the State of Mississippi, by the construction of a dam or dams, reservoir or reservoirs, work or works, plants and any other necessary or useful related facilities contemplated and described as a part of the project within and without the district, to control, store,

and preserve these waters, and to use, distribute, and sell them, to construct or otherwise acquire within the project area all works, plants or other facilities necessary or useful to the project for processing the water and transporting it to cities and other facilities necessary or useful to the project for the purpose of processing the water and transporting it to cities and other facilities for domestic, municipal, commercial, industrial, agricultural and manufacturing purposes, and is hereby given the power to control open channels for water delivery purposes and water transportation.

(c) To acquire and develop any other available water necessary or useful to the project and to construct, acquire, and develop all facilities within the project area deemed necessary or useful with respect thereto.

(d) To forest and reforest and to aid in the foresting and reforesting of the project area, and to prevent and aid in the prevention of soil erosion and flood within the area; to control, store and preserve within the boundaries of the project area the waters of any streams in the area, for irrigation of lands and for prevention of water pollution.

(e) To acquire by condemnation all property of any kind, real, personal or mixed, or any interest therein, within or without the boundaries of the district, necessary for the project and the exercise of the powers, rights, privileges and functions conferred upon the district by this article, according to the

procedure provided by law for the condemnation of lands or other property taken for rights-of-way or other purposes by railroad, telephone or telegraph companies and according to the provisions of Sections 29-1-1 and 29-5-2.2. For the purposes of this article the right of eminent domain of the district shall be superior and dominant to the right of eminent domain of railroad, telegraph, telephone, gas, power and other companies or corporations and shall be sufficient to enable the acquisition of county roads, state highways or other public property in the project area, and the acquisition or relocation of this property in the project area. The cost of right-of-way purchases, rerouting and elevating all other county-maintained roads affected by construction shall be borne by the water management district, and new construction shall be of equal quality as in roads existing as of June 1, 1962. The county in which such work is done may assist in these costs if the board of supervisors desires.

The amount and character of interest in land, other property and easements 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 this determination. However:

(i) In acquiring lands, either by negotiation or condemnation, the district shall not acquire minerals or royalties

within the project area; 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 these products by reason of the inclusion of the lands or mineral interests within the project area, whether below or above the waterline, but any activities shall be under reasonable regulations by the board of directors that will adequately protect the project; and

(iii) In drilling and developing, these persons are hereby vested with a right to have mineral interests integrated and their lands developed in the drilling unit or units that the State Oil and Gas Board shall establish after due consideration of the rights of all owners to be included in the drilling unit.

Moreover, when any site or plot of land is to be rented, leased or sold to any person, firm or corporation for the purpose of operating recreational facilities thereon for profit, the board shall, by resolution, specify the terms and conditions of the sale, rental or lease, and shall advertise for public bids thereon. When these bids are received, they shall be publicly opened by the board, and the board shall thereupon determine the highest and best bid submitted and shall immediately notify the

former owner of the site or plot of the amount, terms and conditions of the highest and best bid. The former owner of the site or plot shall have the exclusive right at his option, for a period of thirty (30) days after written notice is received by the land owner of the determination of the highest and best bid by the board, to rent, lease or purchase the site or plot of land by meeting the highest and best bid and by complying with all terms and conditions of renting, leasing or sale as specified by the board. However, the board shall not in any event rent, lease or sell to any former owner more land than was taken from the former owner for the construction of the project, or one-quarter (1/4) mile of shore line, whichever is lesser. If this option is not exercised by the former owner within a period of thirty (30) days, the board shall accept the highest and best bid submitted.

Any bona fide, resident householder actually living or maintaining a residence on land taken by the district by condemnation shall have the right to repurchase his former land from the board of directors for a price not exceeding the price paid for his land, plus any permanent improvements and plus the cost of condemnation.

(f) To require the necessary relocation of roads and highways, railroad, telephone and telegraph lines and properties, electric power lines, pipelines, and mains and facilities in the project area, or to require the anchoring or other protection of any of these, provided due compensation is first paid the owners

thereof or agreement is had with the owners regarding the payment of the cost of relocation. Further, the district is hereby authorized to acquire easements or rights-of-way in or outside of the project area for the relocation of roads, highways, railroad, telephone and telegraph lines and properties, electric power lines, pipelines, and mains and facilities, and to convey them to the owners thereof in connection with the relocation as a part of the construction of the project. However, the directors of the district shall not close any public access road to the project existing prior to the construction of the reservoir unless the board of supervisors of the county in which the road is located agrees.

(g) To overflow and inundate any public lands and public property, including sixteenth section lands and in lieu lands, within the project area.

(h) Consistent with Section 29-5-2.2, to construct, extend, improve, maintain and reconstruct, to cause to be constructed, extended, improved, maintained and reconstructed, and to use and operate all facilities of any kind within the project area necessary or convenient to the project and to the exercise of powers, rights, privileges and functions.

(i) To sue and be sued in its corporate name.

(j) To adopt, use and alter a corporate seal.

(k) To make bylaws for the management and regulation of its affairs.

(l) To employ engineers, attorneys, who may or may not be a director, and all necessary agents and employees to properly finance, construct, operate and maintain the projects and the plants, and to pay reasonable compensation for these services; for all services in connection with the issuance of bonds as provided in this article, the attorney's fee shall not exceed one percent (1%) of the principal amount of these bonds. For any other services, only reasonable compensation shall be paid for those services. The board shall have the right to employ a general manager or executive director, who shall, at the discretion of the board, have the power to employ and discharge employees. Without limiting the generality of the foregoing, it may employ fiscal agents or advisors in connection with its financing program and in connection with the issuance of its bonds.

(m) To make contracts and to execute instruments necessary or convenient to the exercise of the powers, rights, privileges and functions conferred upon it by this article.

(n) To make or cause to be made surveys and engineering investigations relating to the project, or related projects, for the information of the district to facilitate the accomplishment of the purposes for which it is created.

(o) To apply for and accept grants from the United States of America or from any corporation or agency created or designated by the United States of America, and to ratify and accept applications heretofore or hereafter made by voluntary

associations to these agencies for grants to construct, maintain or operate any project or projects which hereafter may be undertaken or contemplated by the district.

(p) To do all other acts or things necessary, requisite, or convenient to the exercising of the powers, rights, privileges or functions conferred upon it by this article or any other law.

(q) To make such contracts in the issuance of bonds that may be necessary to ensure the marketability thereof.

(r) Consistent with Section 29-5-2.2, to enter into contracts with municipalities, corporations, districts, public agencies, political subdivisions of any kind, and others for any services, facilities or commodities that the project may provide. The district is also authorized to contract with any municipality, corporation or public agency for the rental, leasing, purchase or operation of the water production, water filtration or purification, water supply and distributing facilities of the municipality, corporation or public agency upon consideration as the district and entity may agree. Any contract may be upon any terms and for any time as the parties may agree, and it may provide that it shall continue in effect until bonds specified therein and refunding bonds issued in lieu of these bonds and all obligations are paid. Any contract with any political subdivision shall be binding upon the political subdivisions according to its terms, and the municipalities or other political subdivisions

shall have the power to enter into these contracts as in the discretion of the governing authorities thereof would be to the best interest of the people of the municipality or other political subdivisions. These contracts may include within the discretion of the governing authorities a pledge of the full faith and credit of the political subdivisions for the performance thereof.

(s) To fix and collect charges and rates for any services, facilities or commodities furnished by it in connection with the project, and to impose penalties for failure to pay these charges and rates when due.

(t) To operate and maintain within the project area, with the consent of the governing body of any city or town located within the district, any works, plants or facilities of any city deemed necessary or convenient to the accomplishment of the purposes for which the district is created.

(u) Subject to the provisions of this article and Section 29-5-2.2, from time to time to lease, sell or otherwise lawfully dispose of property of any kind, real, personal or mixed, or any interest therein within the project area or acquired outside the project area as authorized in this article, for the purpose of furthering the business of the district.

(v) When, in the opinion of the board of directors as shown by resolution duly passed, it shall not be necessary to the carrying on of the business of the district that the district own any lands acquired, the board shall advertise the lands for sale

to the highest and best bidder for cash, and shall receive and publicly open the bids thereon. The board shall, by resolution, determine the highest and best bid submitted for the land and shall thereupon notify the former owner, his/her heirs or devisees, by registered mail of the land to be sold and the highest and best bid received therefor, and the former owner, or his/her heirs or devisees, shall have the exclusive right at his/her or their option for a period of thirty (30) days in which to meet such highest and best bid and to purchase such property.

(w) To prevent or aid in the prevention of damage to person or property from the waters of the Pascagoula River or any of its tributaries.

(x) Consistent with Section 29-5-2.2, to acquire by purchase, lease, gift or in any other manner (otherwise than by condemnation) and to maintain, use and operate all property of any kind, real, personal or mixed, or any interest therein within the project area, within or without the boundaries of the district, necessary for the project and convenient to the exercise of the powers, rights, privileges and functions conferred upon the district by this article.

(y) In the purchase of or in the entering into of all lease purchase agreements for supplies, equipment, heavy equipment and the like, the directors shall in all instances comply with the provisions of law pertaining to public purchases by public bids on these supplies and equipment.

(z) To designate employees as peace officers with the power to make arrests for violations of regulations of the district. The officers are authorized to carry weapons and to enforce the laws of the state within the confines of district parks and property. Any employee so designated is required to obtain and maintain certification pursuant to Section 45-6-1 et seq.

(aa) To contract with persons, who are certified according to the minimum standards established by the Board on Law Enforcement Officer Standards and Training under Section 45-6-1 et seq., to serve as peace officers with the power to make arrests for violations of regulations of the district. Such officers are authorized to carry weapons and to enforce the laws of the state within the confines of district parks and property. All persons with which the district has contracted under this paragraph (aa) shall be independent contractors and shall not be considered as employees under Chapter 46, Title 11, Mississippi Code of 1972.

(bb) To: (i) receive and expend funds that are made available to it under the provisions of the federal American Recovery and Reinvestment Act of 2009 (ARRA), and/or from any other source, to construct a lake and related structures and facilities in George County, Mississippi, if the funds received by the district may be used for that purpose; (ii) obtain any information and research regarding construction of the lake and related structures and facilities from the Department of Wildlife,

Fisheries and Parks; and (iii) to receive and expend any funds made available to the district from the Department of Wildlife, Fisheries and Parks for the construction of the lake and related structures and facilities.

(2) The board of directors shall annually prepare a five-year plan containing a prioritized list detailing the purposes, goals and projected costs of projects which it intends to implement or is in the process of implementing and shall file such plans with the clerk of the board of supervisors of each member county, with the clerk of each member municipality, and with the Chairmen of the House and Senate Appropriations Committees on or before July 15 of each year.

(3) The board of directors shall, after completion of the annual audit of the district and upon receipt of the written report thereon, file a copy of such audit with the clerk of the board of supervisors of each member county, and with the clerk of each member municipality.

SECTION 17. Section 55-24-9, Mississippi Code of 1972, is amended as follows:

55-24-9. Consistent with Section 29-5-2.2, the Mississippi Coast Coliseum Commission, a political subdivision of the State of Mississippi, shall have jurisdiction and authority over matters relating to promoting, developing, maintaining and operating a multipurpose coliseum and related facilities within Harrison County, Mississippi. Multipurpose coliseum and related facilities

shall include a multipurpose coliseum or arena facility, a convention center and facility grounds, as well as any lands purchased by or on the behalf of the commission. From and after July 1, 2016, any development and/or any land acquired by or on behalf of the commission, shall be subject to the Land Development Ordinances of the City of Biloxi. Such commission is authorized to acquire lands by purchase, gift or the exercise of eminent domain as provided by Section 11-27-1 et seq., above or below mean high-water mark subject to the approval of the Harrison County Board of Supervisors. The acquisition of lands below mean high-water mark by the commission for the purposes authorized herein are declared to be in all respects for the benefit of the people of the State of Mississippi, a public purpose, and an essential governmental function in the exercise of the powers conferred upon them by such act.

Consistent with Section 29-5-2.2, the commission, acting on behalf of the State of Mississippi, shall have the right to reclaim submerged lands for the purpose of constructing a multipurpose coliseum and related facilities, and to acquire in its name on behalf of the state any estate or property right therein or in other land necessary to the purpose of this chapter by purchase, gift, deed or other transfer, subject to the approval of the Harrison County Board of Supervisors. Title to all oil, gas and other minerals in, on or under any lands, title to which is held by the State of Mississippi on August 8, 1968, shall be

reserved unto the State of Mississippi, and all income derived from the sale or lease of such minerals shall inure to the benefit of the State of Mississippi for such purposes as the Legislature may direct. Provided, that prior to utilization of lands in which title vests in the State of Mississippi, a description of such land shall be submitted to the Department of Finance and Administration and said utilization shall not be commenced until or unless approval of such utilization is given by the Department of Finance and Administration.

The commission is authorized to own, furnish, equip and operate the multipurpose coliseum and facilities and equipment necessary or useful in the operation of such multipurpose coliseum and related facilities; to receive and expend, subject to the provisions of this chapter and the approval of the commission's annual budget by the Harrison County Board of Supervisors, revenues from any source, including the operation of the multipurpose coliseum and related facilities; and to do all other things necessary to carry out the purposes of this chapter.

The commission is authorized and directed to adopt uniform rules and regulations regarding the granting of contracts that are less than one hundred eighty (180) days for franchises, licenses, contracts or lease agreements, or the granting of contracts that are less than one hundred eighty (180) days for the use, operation and maintenance of the premises, and to publish the uniform rules and regulations for three (3) consecutive weeks in a newspaper

having a general circulation in the county and fixing a time and place not more than ten (10) days after the last publication to receive and hear objections to such rules and regulations. The commission shall also publish such information on commission and county websites during the same time period as the newspaper publication. In addition, a copy of such rules and regulations or any revisions or amendments thereto shall be filed with the Clerk of the Harrison County Board of Supervisors. The commission may revise or amend such rules and regulations but such revisions shall be uniform and shall not be adopted unless the commission shall publish the proposed change and hold a public hearing as required by this section.

Before any contract that is more than one hundred eighty (180) days for a franchise, license, contract or lease agreement may be granted, the commission shall notify the Harrison County Board of Supervisors and publish its intent to grant such franchise, license, contract or lease agreement and the conditions upon which same shall be granted. Such publication shall be made for three (3) consecutive weeks in a newspaper having a general circulation in Harrison County. Such publication shall also be made on the commission and county websites during the same time period as the newspaper publication. All bids received shall be sealed, and shall be opened at a date, time and place set forth in the publications, which date shall not be less than five (5) days

nor more than ten (10) days after the last day of such publications.

Unless the commission shall find that the successful bidder cannot demonstrate financial responsibility to comply with the terms and conditions of the franchise, license, contract or lease agreement or cannot perform the services required thereunder, it shall, subject to the limitations set forth under this chapter, recommend the granting of the franchise, license, contract or lease agreement to the bidder whose proposal shall be in the best financial interest of the commission.

Any person aggrieved by any action of the commission may appeal to the Circuit Court of Harrison County in the manner provided for appeals from orders of the board of supervisors.

The commission is granted the power to sue and be sued in its own name, and the commission is authorized to take liability insurance on the operation of the facilities in an amount equal to the extent of its liability for claims or causes of action arising from acts or omissions as provided in Section 11-46-15; provided, however, that immunity from suit is only waived to the extent of such liability insurance carried, and a judgment creditor shall have recourse only to the proceeds or right to proceeds of such liability insurance. No attempt shall be made in the trial of any case to suggest the existence of any insurance which covers, in whole or in part, any judgment or award rendered in favor of a claimant, but if the verdict rendered by the jury exceeds the

limit of applicable insurance, the court on motion shall reduce the amount of said judgment to a sum equal to the applicable limit stated in the insurance policy.

The commission shall prepare an annual budget specifically describing the proposed receipt and expenditure of all funds from any source whatsoever, and such budget shall be approved by the Harrison County Board of Supervisors. If the commission desires to take any action associated with the receipt or expenditure of funds which deviates from the annual budget, such individual action shall be subject to the approval of the Harrison County Board of Supervisors.

The commission is granted the power to invest funds credited to the Mississippi Coast Coliseum Commission Operating Fund, the commission is vested with authority to designate depositories of its funds, and to deposit the funds in interest-bearing accounts. Provided, however, all funds in excess of ninety (90) days' operating expenses, to the extent practicable, shall be invested in Treasury bills or in interest-bearing accounts or approved securities to include, but not limited to, United States Treasury bills and United States Treasury notes and bonds, federal agency securities or mortgage-backed securities guaranteed as to repayment of principal by the government or an agency of such government, certificates of deposit fully covered by insurance administered by the Federal Deposit Insurance Corporation or covered by pledged securities, repurchase agreements and

short-term money market funds invested in United States government and United States government agencies.

The commission is authorized to contract with any agency of the United States or the State of Mississippi for a loan or grant, subject to the approval of the Harrison County Board of Supervisors and to give such agency any assurances of compliance with federal or state laws which are not in conflict with the laws of the State of Mississippi. It is the intent and purpose of this chapter that the Coliseum Commission cooperate with agencies administering the National Seashore Act of 1970.

Whenever any real or personal property belonging to the commission shall cease to be used or needed for the commission's purposes, the commission may recommend to the Harrison County Board of Supervisors that it sell, exchange or lease the property on such terms as the commission may propose. No lease of surplus real property may exceed a term of ninety-nine (99) years. The deed of conveyance in such transactions shall be executed in the name of the commission by the Harrison County Board of Supervisors pursuant to order issued on the minutes of its meetings. In any sale, exchange or lease of real property, the commission shall retain all mineral rights that it owns, together with the right of ingress and egress to remove same. Before any sale, exchange or lease is made, the commissioners shall publish at least once each week for three (3) consecutive weeks, in a public newspaper of Harrison County, Mississippi, and on the commission and county

websites the intention to sell, exchange or lease, as the case may be, the real or personal property and to accept sealed competitive bids for the sale, exchange or lease. The commissioners shall thereafter accept bids for the sale, exchange or lease, and the property shall be sold, exchanged or leased to the highest and best bidder in the manner provided by law. However, whenever the commissioners shall find and determine, by resolution duly and lawfully adopted and spread upon its minutes: (a) that any commission-owned real property is no longer needed for commission purposes and is not to be used in the operation of a multipurpose coliseum and related facilities, (b) that the sale, exchange or lease of such property in the manner otherwise provided for herein is necessary or desirable for the financial welfare of a multipurpose coliseum and related facilities, and (c) that the use of such property for the purpose for which it is to be sold, exchanged or leased will promote and foster the development and improvement of the multipurpose coliseum and related facilities, the commissioners may recommend to the Harrison County Board of Supervisors that it sell, exchange or lease the property without having to advertise for and accept competitive bids. In any case in which the commission proposes to sell or exchange real property under the provisions of this section without advertising for and accepting competitive bids, the Harrison County Board of Supervisors must approve such proposal, and consideration for the sale or exchange of the real property shall be not less than the

average of the fair market price for the property as determined by three (3) professional property appraisers selected by the commission and approved by the purchaser or devisee and the Harrison County Board of Supervisors. Appraisal fees shall be shared equally by the commission and the purchaser or devisee.

The enumeration of any specific rights and powers contained herein or elsewhere in this chapter where followed by general powers shall not be construed in the restrictive sense but rather in as broad and comprehensive sense as possible to effectuate the purposes and intent of this chapter.

SECTION 18. Section 57-1-23, Mississippi Code of 1972, is amended as follows:

57-1-23. (1) The several municipalities of this state, including counties, judicial districts of counties having two judicial districts, supervisors districts, cities, towns or villages, whether existing under special charters or otherwise, hereinabove called "municipalities," are hereby authorized and empowered to make effective the provisions herein contained, for the general welfare of the state and of the several municipalities thereof. When and after such municipality shall have obtained therefor a certificate of public convenience and necessity, under the provisions of Sections 57-1-19 and 57-1-21, and complied with the provisions of Section 29-5-2.2, then it may acquire land by purchase, gift, eminent domain or otherwise for any such enterprise so thus approved, and may directly or by contract, such

contract to be entered into and governed as now provided by law for other public contracts entered into by boards of supervisors, erect such buildings and structures as may be essential for such enterprise, may obtain for such enterprise the requisite appliances and equipment, and may operate such enterprise. The power thus to do is hereby generally conferred upon all such municipalities, and shall be in addition to all other powers now possessed without in anywise limiting or circumscribing them.

(2) Consistent with Section 29-5-2.2, any city or town in this state situated in a county bordering on the Mississippi River and situated not more than five miles from the proposed industrial site or location of any industrial plant or proposed site of such plant, authorized to be established, built and erected under the terms of Sections 57-1-1 through 57-1-51, such distance to be measured between the corporate line of any such city or town nearest such proposed site and the boundary of such proposed site nearest such corporate line, is hereby authorized and empowered to join with another municipality and subdivisions of government, as defined hereinabove, in the creation, establishment, acquisition, ownership, control, sale, lease, disposition and disposal of any such plant, plant site and/or other property, real and personal, acquired, owned, or otherwise possessed and controlled under authority of Sections 57-1-1 through 57-1-51, notwithstanding the fact that the said, or proposed, plant, plant site, and/or other property, real or personal, is situated in another supervisors

district other than the supervisors district in which such city or town is situated. In all cases provided for in this subsection, all authority, powers, privileges and rights provided for in Sections 57-1-1 through 57-1-51, shall be and are hereby conferred upon and vested in such city or town and such other municipality as may join therewith, as herein authorized.

SECTION 19. Section 59-5-35, Mississippi Code of 1972, is amended as follows:

59-5-35. Consistent with Section 29-5-2.2, the board, acting jointly with the state port authority, is authorized to set aside, or lease all or portions of any lands, roads, docks, sheds, warehouses, elevators, compresses, floating dry docks, graving docks, marine railways, tugboats, or any other necessary or useful improvements constructed or acquired by it to individuals, firms, or corporations, public or private, for port, harbor, commercial or industrial purposes for a period not to exceed ninety-nine (99) years, or to execute a conveyance of sale, except as otherwise limited by law, on such terms and conditions and with such safeguards as would best promote and protect the public interest. Any industrial lease of lands may be executed upon such terms and conditions and for such monetary rental or other consideration as may be found adequate and approved by the board in orders or resolutions authorizing the same. Any covenants and agreements of the lessee to make expenditures in determined amounts, and within such time or times, for improvements to be erected upon the land,

by such lessee and to conduct thereon industrial and/or other operations in such aggregate payroll amounts and for such period of time as may be determined and defined in such lease, and to give preference in employment where practical to residents of the State of Mississippi, and to qualified residents of the city and of the county in which such port or harbor is located, shall if included in such lease constitute and be deemed sufficient consideration for the execution of any such lease in the absence of monetary rental or other considerations; and such instrument may contain reasonable provisions giving the lessee the right to remove its or his improvements upon the termination of the lease. All leases theretofore made by any port commission, port authority, or other public agency authorized by law to execute leases for port, harbor, commercial or industrial improvements, which leases are now in effect or which may be hereafter executed by any such public agency or by the board, and all structures and all improvements and other permanent facilities erected, installed or located by such lessees or their successors or assignees within the limits of any port, harbor or part thereof, may be free and exempt from all state, county, and municipal ad valorem taxes if so stipulated in such lease, and for such period as may be fixed in such lease.

SECTION 20. Section 59-5-39, Mississippi Code of 1972, is amended as follows:

59-5-39. For the acquiring of rights-of-way, land and property including existing easements, restrictive covenants and reversionary estates necessary for the purposes herein authorized, the board shall have the right and power to acquire the same by purchase, negotiation or condemnation, * * * consistent with Section 29-5-2.2. Should it elect to exercise the right of eminent domain, it may proceed in the manner provided by the general laws of the State of Mississippi for procedure by any county, municipality or corporation organized under the laws of this state, or in any other manner provided by law. The power of eminent domain shall apply not only as to all property of private persons or corporations, but also as to property already devoted to public use including leaseholds, excepting interests in property owned by levee boards, drainage districts or other flood control agencies. However, the board shall have no authority to acquire without the consent of the owner thereof any property operated and used for port, harbor or industrial purposes or such purposes as the board is authorized to acquire and use property for, unless an actual necessity therefor be alleged and proven. The board is authorized to accept donations of lands, rights therein, monies and materials required for the maintenance or development of any port or harbor. The board may exchange any property or properties acquired under the authority of this chapter for other property or properties usable in carrying out the powers hereby conferred, and also remove from lands needed for

its purposes and reconstruct on other locations, buildings, utilities, terminals, railroads or other structures upon the payment of just compensation, if it is necessary so to do in order to carry out any of its plans for port development. The title to all land or property acquired under the authority of this chapter shall vest in the State of Mississippi. Nothing contained in this section shall be construed to authorize the taking by eminent domain of any private property except for necessary public use.

SECTION 21. Section 59-7-211, Mississippi Code of 1972, is amended as follows:

59-7-211. In all such counties *** * *** described in Section 59-7-201, upon and with the approval of the board of supervisors and consistent with Section 29-5-2.2, the port commission shall have the power and authority to sell or lease any lands or easements acquired by any such county in conjunction with the establishment and construction of any port or harbor under the jurisdiction of said commission for the purposes of industrial development, but the terms and provisions of any such sales or lease shall include limitations as to the use of such lands and easements for industrial activities integrated to water transportation in accordance with the terms and provisions of such assurances of local cooperation as may have been given by virtue of Section 51-35-15 or Section 51-35-17, Mississippi Code of 1972, and the provisions of this article. Furthermore, said port commission, upon and with the approval of the board of

supervisors, shall have the power and is hereby authorized, in its discretion, to sell and convey to the United States of America, without any limitations whatsoever, by general or special warranty deed or other acceptable form or conveyance, the full title to any lands acquired or held by any such county in connection with the establishment and development of any harbor or port project under the jurisdiction of said commission in exchange for the title to lands of the United States of America deemed useful for or needed by any county in connection with the establishment, enlargement, development, construction or maintenance of any port or harbor project under the jurisdiction of said commission, or for such other consideration as said commission and said board find to be adequate and sufficient. Said port commission, upon and with the approval of the board of supervisors of the county, is further hereby authorized to donate and/or sell and convey, without any limitations, upon such terms and conditions as may be deemed proper by the said commission and said board of supervisors, to the United States of America any of the lands needed by the United States of America for navigation and/or flood control purposes, or in fulfillment of any authorized assurances which have been given or which may be given by said county to the United States of America, or for the purpose of the display of the Gunboat Cairo.

SECTION 22. Section 59-17-13, Mississippi Code of 1972, is amended as follows:

59-17-13. (1) The board shall have power to acquire, purchase, install, lease, construct, own, hold, maintain, equip, use, control, and operate ports, harbors, waterways, channels, wharves, piers, docks, quays, elevators, tipples, compresses, bulk loading and unloading facilities, warehouses, floating dry docks, graving docks, marine railways, tugboats, machinery and equipment, and water, air and rail terminals, and roadways and approaches thereto, and other structures and facilities needful for the convenient use of the same in the aid of commerce, including the dredging, deepening, extending, widening, or enlarging of any ports, harbors, rivers, channels, and waterways, the damming of inland waterways, the establishment of water basins, the acquisition and development of industrial sites and the reclaiming of submerged lands.

(2) The State Inland Port Authority, subject to the approval of the board, shall have the power to borrow money from any source, public or private, for any of its corporate purposes and to give such security as may be required in connection therewith and to enter into a joint agreement with the boards of supervisors of any county, or the governing authority of any municipality, or both acting jointly, to issue revenue bonds of such county or municipality, or both, acting jointly, as provided by Section 59-7-311 which bonds may be payable out of any revenues of the authority, including grants or contributions from the federal government or other sources. Such revenue bonds may be issued

without an election on resolution of the board of supervisors, governing body of the municipality, or both acting jointly, and shall not be subject to any limitation as to amount, and shall not be included or computed in the statutory limitation of indebtedness of any such county or municipality.

(3) All leases which are now in effect or which may hereafter be executed by the State Inland Port Authority for port, harbor, commercial or industrial improvements, and all structures and all improvements and other permanent facilities erected, installed or located by such lessees, or their successors or assignees within the limits of any port, harbor or part thereof, may be free and exempt from all state, county and municipal ad valorem taxes if so stipulated in such lease, and for such period as may be fixed in such lease, not to exceed such periods of time as are now authorized or may be hereafter authorized by law.

(4) The board shall exercise the powers conferred by the State Inland Ports Law consistent with Section 29-5-2.2.

SECTION 23. Section 65-1-8, Mississippi Code of 1972, is amended as follows:

65-1-8. (1) The Mississippi Transportation Commission shall have the following general powers, duties and responsibilities:

(a) To coordinate and develop a comprehensive, balanced transportation policy for the State of Mississippi;

(b) To promote the coordinated and efficient use of all available and future modes of transportation;

(c) To make recommendations to the Legislature regarding alterations or modifications in any existing transportation policies;

(d) To study means of encouraging travel and transportation of goods by the combination of motor vehicle and other modes of transportation;

(e) To take such actions as are necessary and proper to discharge its duties pursuant to the provisions of Chapter 496, Laws of 1992, and any other provision of law;

(f) To receive and provide for the expenditure of any funds made available to it by the Legislature, the federal government or any other source.

(2) In addition to the general powers, duties and responsibilities listed in subsection (1) of this section, the Mississippi Transportation Commission shall have the following specific powers:

(a) To make rules and regulations whereby the Transportation Department shall change or relocate any and all highways herein or hereafter fixed as constituting a part of the state highway system, as may be deemed necessary or economical in the construction or maintenance thereof; to acquire by gift, purchase, condemnation or otherwise, land or other property whatsoever that may be necessary for a state highway system as herein provided, with full consideration to be given to the stimulation of local public and private investment when acquiring

such property in the vicinity of Mississippi towns, cities and population centers;

(b) To enforce by mandamus, or other proper legal remedies, all legal rights or rights of action of the Mississippi Transportation Commission with other public bodies, corporations or persons;

(c) To make and publish rules, regulations and ordinances for the control of and the policing of the traffic on the state highways, and to prevent their abuse by any or all persons, natural or artificial, by trucks, tractors, trailers or any other heavy or destructive vehicles or machines, or by any other means whatsoever, by establishing weights of loads or of vehicles, types of tires, width of tire surfaces, length and width of vehicles, with reasonable variations to meet approximate weather conditions, and all other proper police and protective regulations, and to provide ample means for the enforcement of same. The violation of any of the rules, regulations or ordinances so prescribed by the commission shall constitute a misdemeanor. No rule, regulation or ordinance shall be made that conflicts with any statute now in force or which may hereafter be enacted, or with any ordinance of municipalities. A monthly publication giving general information to the boards of supervisors, employees and the public may be issued under such rules and regulations as the commission may determine;

(d) To give suitable numbers to highways and to change the number of any highway that shall become a part of the state highway system. However, nothing herein shall authorize the number of any highway to be changed so as to conflict with any designation thereof as a U.S. numbered highway. Where, by a specific act of the Legislature, the commission has been directed to give a certain number to a highway, the commission shall not have the authority to change such number;

(e) (i) To make proper and reasonable rules, regulations, and ordinances for the placing, erection, removal or relocation of telephone, telegraph or other poles, signboards, fences, gas, water, sewerage, oil or other pipelines, and other obstructions that may, in the opinion of the commission, contribute to the hazards upon any of the state highways, or in any way interfere with the ordinary travel upon such highways, or the construction, reconstruction or maintenance thereof, and to make reasonable rules and regulations for the proper control thereof. Any violation of such rules or regulations or noncompliance with such ordinances shall constitute a misdemeanor;

(ii) Except as otherwise provided for in this paragraph, whenever the order of the commission shall require the removal of, or other changes in the location of, telephone, telegraph or other poles, signboards, gas, water, sewerage, oil or other pipelines, or other similar obstructions on the right-of-way or such other places where removal is required by law, the owners

thereof shall at their own expense move or change the same to conform to the order of the commission. Any violation of such rules or regulations or noncompliance with such orders shall constitute a misdemeanor;

(iii) Rural water districts, rural water systems, nonprofit water associations and municipal public water systems in municipalities with a population of ten thousand (10,000) or less, according to the latest federal decennial census, shall not be required to bear the cost and expense of removal and relocation of water and sewer lines and facilities constructed or in place in the rights-of-way of state highways. The cost and expense of such removal and relocation, including any unpaid prior to July 1, 2002, shall be paid by the Department of Transportation;

(iv) Municipal public sewer systems and municipal gas systems owned by municipalities with a population of ten thousand (10,000) or less, according to the latest federal decennial census, shall not be required to bear the cost and expense of removal and relocation of lines and facilities constructed or in place in the rights-of-way of state highways. The cost and expense of such removal and relocation, including any unpaid prior to July 1, 2003, shall be paid by the Department of Transportation;

(f) To regulate and abandon grade crossings on any road fixed as a part of the state highway system, and whenever the commission, in order to avoid a grade crossing with the railroad,

locates or constructs said road on one side of the railroad, the commission shall have the power to abandon and close such grade crossing, and whenever an underpass or overhead bridge is substituted for a grade crossing, the commission shall have power to abandon such grade crossing and any other crossing adjacent thereto. Included in the powers herein granted shall be the power to require the railroad at grade crossings, where any road of the state highway system crosses the same, to place signal posts with lights or other warning devices at such crossings at the expense of the railroad, and to regulate and abandon underpasses or overhead bridges and, where abandoned because of the construction of a new underpass or overhead bridge, to close such old underpass or overhead bridge, or, in its discretion, to return the same to the jurisdiction of the county board of supervisors;

(g) To make proper and reasonable rules and regulations to control the cutting or opening of the road surfaces for subsurface installations;

(h) To make proper and reasonable rules and regulations for the removal from the public rights-of-way of any form of obstruction, to cooperate in improving their appearance, and to prescribe minimum clearance heights for seed conveyors, pipes, passageways or other structure of private or other ownership above the highways;

(i) To establish, and have the Transportation Department maintain and operate, and to cooperate with the state

educational institutions in establishing, enlarging, maintaining and operating a laboratory or laboratories for testing materials and for other proper highway purposes;

(j) To provide, under the direction and with the approval of the Department of Finance and Administration, suitable offices, shops and barns in the City of Jackson;

(k) To establish and have enforced set-back regulations;

(l) To cooperate with proper state authorities in producing limerock for highway purposes and to purchase same at cost;

(m) To provide for the purchase of necessary equipment and vehicles and to provide for the repair and housing of same *** * ***;

(n) Consistent with Section 29-5-2.2, to acquire by gift, purchase, condemnation or otherwise, land or lands and buildings in fee simple, and to authorize the Transportation Department to construct, lease or otherwise provide necessary and proper permanent district offices for the construction and maintenance divisions of the department, and for the repair and housing of the equipment and vehicles of the department; however, in each Supreme Court district only two (2) permanent district offices shall be set up, but a permanent status shall not be given to any such offices until so provided by act of the Legislature and in the meantime, all shops of the department shall be retained

at their present location. As many local or subdistrict offices, shops or barns may be provided as is essential and proper to economical maintenance of the state highway system;

(* * *o) To cooperate with the Department of Archives and History in having placed and maintained suitable historical markers, including those which have been approved and purchased by the State Historical Commission, along state highways, and to have constructed and maintained roadside driveways for convenience and safety in viewing them when necessary;

(* * *p) To cooperate, in its discretion, with the Mississippi Department of Wildlife, Fisheries and Parks in planning and constructing roadside parks upon the right-of-way of state highways, whether constructed, under construction, or planned; said parks to utilize where practical barrow pits used in construction of state highways for use as fishing ponds. Said parks shall be named for abundant flora and fauna existing in the area or for the first flora or fauna found on the site;

(* * *q) Unless otherwise prohibited by law, to make such contracts and execute such instruments containing such reasonable and necessary appropriate terms, provisions and conditions as in its absolute discretion it may deem necessary, proper or advisable, for the purpose of obtaining or securing financial assistance, grants or loans from the United States of America or any department or agency thereof, including contracts

with several counties of the state pertaining to the expenditure of such funds;

(* * *r) To cooperate with the Federal Highway Administration in the matter of location, construction and maintenance of the Great River Road, to expend such funds paid to the commission by the Federal Highway Administration or other federal agency, and to authorize the Transportation Department to erect suitable signs marking this highway, the cost of such signs to be paid from state highway funds other than earmarked construction funds;

(* * *s) To cooperate, in its discretion, with the Mississippi Forestry Commission and the School of Forestry, Mississippi State University, in a forestry management program, including planting, thinning, cutting and selling, upon the right-of-way of any highway, constructed, acquired or maintained by the Transportation Department, and to sell and dispose of any and all growing timber standing, lying or being on any right-of-way acquired by the commission for highway purposes in the future; such sale or sales to be made in accordance with the sale of personal property which has become unnecessary for public use as provided for in Section 65-1-123, Mississippi Code of 1972;

(* * *t) To expend funds in cooperation with the Division of Plant Industry, Mississippi Department of Agriculture and Commerce, the United States government or any department or agency thereof, or with any department or agency of this state, to

control, suppress or eradicate serious insect pests, rodents, plant parasites and plant diseases on the state highway rights-of-way;

(* * *u) To provide for the placement, erection and maintenance of motorist services business signs and supports within state highway rights-of-way in accordance with current state and federal laws and regulations governing the placement of traffic control devices on state highways, and to establish and collect reasonable fees from the businesses having information on such signs;

(* * *v) To request and to accept the use of persons convicted of an offense, whether a felony or a misdemeanor, for work on any road construction, repair or other project of the Transportation Department. The commission is also authorized to request and to accept the use of persons who have not been convicted of an offense but who are required to fulfill certain court-imposed conditions pursuant to Section 41-29-150(d)(1) or 99-15-26, Mississippi Code of 1972, or the Pretrial Intervention Act, being Sections 99-15-101 through 99-15-127, Mississippi Code of 1972. The commission is authorized to enter into any agreements with the Department of Corrections, the State Parole Board, any criminal court of this state, and any other proper official regarding the working, guarding, safekeeping, clothing and subsistence of such persons performing work for the Transportation Department. Such persons shall not be deemed

agents, employees or involuntary servants of the Transportation Department while performing such work or while going to and from work or other specified areas;

(* * *w) To provide for the administration of the railroad revitalization program pursuant to Section 57-43-1 et seq.;

(* * *x) The Mississippi Transportation Commission is further authorized, in its discretion, to expend funds for the purchase of service pins for employees of the Mississippi Transportation Department;

(* * *y) To cooperate with the State Tax Commission by providing for weight enforcement field personnel to collect and assess taxes, fees and penalties and to perform all duties as required pursuant to Section 27-55-501 et seq., Sections 27-19-1 et seq., 27-55-1 et seq., 27-59-1 et seq. and 27-61-1 et seq., Mississippi Code of 1972, with regard to vehicles subject to the jurisdiction of the Office of Weight Enforcement. All collections and assessments shall be transferred daily to the State Tax Commission;

(* * *z) The Mississippi Transportation Commission may delegate the authority to enter into a supplemental agreement to a contract previously approved by the commission if the supplemental agreement involves an additional expenditure not to exceed Two Hundred Fifty Thousand Dollars ($250,000.00);

(* * *aa) (i) The Mississippi Transportation Commission, in its discretion, may enter into agreements with any county, municipality, county transportation commission, business, corporation, partnership, association, individual or other legal entity, for the purpose of accelerating the completion date of scheduled highway construction projects.

(ii) Such an agreement may permit the cost of a highway construction project to be advanced to the commission by a county, municipality, county transportation commission, business, corporation, partnership, association, individual or other legal entity, and repaid to such entity by the commission when highway construction funds become available; provided, however, that repayment of funds advanced to the Mississippi Transportation Commission shall be made no sooner than the commission's identified projected revenue schedule for funding of that particular construction project, and no other scheduled highway construction project established by statute or by the commission may be delayed by an advanced funding project authorized under this paragraph (* * *aa). Repayments to a public or private entity that advances funds to the Mississippi Transportation Commission under this paragraph (* * *aa) may not include interest or other fees or charges, and the total amount repaid shall not exceed the total amount of funds advanced to the commission by the entity; however, the inclusion of public entities in this provision does not invalidate any existing

agreements authorized under this paragraph (* * *aa) before April 19, 2022. The commission shall retain the ability to service, refinance or restructure any indebtedness incurred through any such existing agreements.

(iii) In considering whether to enter into such an agreement, the commission shall consider the availability of financial resources, the effect of such agreement on other ongoing highway construction, the urgency of the public's need for swift completion of the project and any other relevant factors.

(iv) Such an agreement shall be executed only upon a finding by the commission, spread upon its minutes, that the acceleration of the scheduled project is both feasible and beneficial. The commission shall also spread upon its minutes its findings with regard to the factors required to be considered pursuant to subparagraph (iii) of this paragraph (* * *aa);

(* * *bb) The Mississippi Transportation Commission, in its discretion, may purchase employment practices liability insurance, and may purchase an excess policy to cover catastrophic losses incurred under the commission's self-insured workers' compensation program authorized under Section 71-3-5. Such policies shall be written by the agent or agents of a company or companies authorized to do business in the State of Mississippi. The deductibles shall be in an amount deemed reasonable and prudent by the commission, and the premiums thereon shall be paid from the State Highway Fund. Purchase of insurance under this

paragraph shall not serve as an actual or implied waiver of sovereign immunity or of any protection afforded the commission under the Mississippi Tort Claims Act;

(* * *cc) The Mississippi Transportation Commission is further authorized, in its discretion, to expend funds for the purchase of promotional materials for safety purposes, highway beautification purposes and recruitment purposes;

(* * *dd) To lease antenna space on communication towers which it owns;

(* * *ee) To receive funds from the Southeastern Association of Transportation Officials and from other nonstate sources and expend those funds for educational scholarships in transportation related fields of study. The commission may adopt rules or regulations as necessary for the implementation of the program. A strict accounting shall be made of all funds deposited with the commission and all funds dispersed;

(* * *ff) To contract with any county, if the county chooses to enter such contract, to perform any maintenance on the state highways and interstate highways in that county and any rights-of-way to such highways.

SECTION 24. Section 65-1-17, Mississippi Code of 1972, is amended as follows:

65-1-17. In the event the department needs additional office space which cannot be provided either in state office buildings, or other state-owned buildings, the commission is hereby

authorized to rent, consistent with Section 29-5-2.2, on an annual or month-to-month basis on such terms as it may determine to be proper, such office space as may be necessary.

SECTION 25. Section 69-7-109, Mississippi Code of 1972, is amended as follows:

69-7-109. The Department of Agriculture and Commerce shall have the power to:

(a) Fix salaries of any authorized employees of the market;

(b) Fix rentals and charges for each type of facility constructed in the market, taking into consideration the cost of such facility, the interest and amortization period required, a proper relationship between types of operators in the market, cost of operation, and the need for reasonable reserves, expansion and the like;

(c) Make investigations and hold hearings and conferences necessary to formulate and adopt a financial building and operating program for a market and make revisions from time to time;

(d) Make rules and regulations which shall govern all such business and all persons and vehicles coming upon the market;

(e) Provide and enforce penalties and liquidated damages relative to breaches of such rules and regulations and any contracts entered into;

(f) Lease the buildings and facilities to farmers, wholesale dealers, retailers and other persons engaged in the wholesale or retail marketing of perishable farm products;

(g) Determine and set the hours when the market may open and close during any day or night throughout the year;

(h) Consistent with Section 29-5-2.2, plan, build, construct or cause to be built or constructed, or lease any facilities, on the grounds under the control of the department, that are deemed necessary for the successful operation of a wholesale or retail market for farm products;

(i) Rent or lease any necessary property, real or personal, on the grounds under the control of the department for the successful operation of the market. However, that before leasing or renting any property for use as a filling station or the sale of similar supplies and accessories, the department shall advertise and receive sealed bids therefor, and shall have the power to reject any and all of such bids, or to accept the highest and best bid made therefor, and the lessee shall erect such buildings and add such facilities as necessary to carry out the provisions of this article at the expense of the lessee in addition to any other monies paid as lease money to said board for the purpose of operating a service station. Such establishment shall not be tax exempt. No filling station shall be leased for a monthly rental less than One Cent (1¢) per gallon for each gallon of gasoline sold;

(j) Employ an attorney as prescribed in Section 69-1-14.

The department shall also have full power and authority to rent or lease real property, on the grounds under the control of the department, not otherwise used, for a period not to exceed twenty-five (25) years to private concerns for the purpose of processing agricultural products, and providing such facilities found necessary by the department to carry out the purposes of this article, and such facilities, structures, buildings, or other improvements erected or placed thereon by private concerns shall be subject to taxation the same as private property, provided, however, that improvements or facilities erected thereon for processing agricultural products shall not be assessed or taxed until five (5) years after completion of construction. The improvements and facilities erected on said leased property shall be liable for ad valorem taxes and shall be assessed and levied against said leasehold separately from the fee of said lands, and upon failure to pay taxes upon same when due, said facilities and improvements shall be sold by the tax collector as other property is sold for the nonpayment of taxes, but only such rights of the lessee under said lease contract shall be so sold. Upon the failure to pay taxes promptly when due on said lease, the department shall have the power to cancel and terminate said lease immediately and shall thereupon be authorized to lease or re-lease same to another private individual or concern as herein provided.

The provisions hereof regarding taxation shall not apply to those buildings, structures and facilities erected on said property by the department.

The department shall maintain or operate local market.

SECTION 26. Section 69-27-35, Mississippi Code of 1972, is amended as follows:

69-27-35. A soil and water conservation district organized under the provisions of this article shall constitute a governmental subdivision of this state, and a public body, corporate and politic, exercising public powers, and such district and the commissioners thereof shall have the following powers, in addition to others granted in other sections of this article:

(a) To conduct surveys, investigations and research relating to the character of soil erosion and the preventive and control measures needed, to publish results of such surveys, investigations or research, and to disseminate information concerning such preventive and control measures. However, in order to avoid duplication of research activities, no district shall initiate any research program except in cooperation with the government of this state or any of its agencies, or with the United States or any of its agencies.

(b) To conduct demonstration projects within the district on lands owned or controlled by this state or any of its agencies, with the cooperation of the agency administering and having jurisdiction thereof, and on any other lands within the

district upon obtaining the consent of the owner of such lands or the necessary rights or interests in such lands, in order to demonstrate by example the means, methods, and measures by which water and soil resources may be conserved, and soil erosion in the form of soil washing may be prevented and controlled.

(c) To carry out preventive and control measures within the district including, but not limited to, engineering operations, methods of cultivation, the growing of vegetation, changes in use of land, and the measures listed in subsection (c), Section 69-27-3, on lands owned or controlled by this state or any of its agencies, with the cooperation of the agency administering and having jurisdiction thereof, and on any other lands within the district upon obtaining the consent of the owner of such lands.

(d) To cooperate, or enter into agreements with, and within the limits of appropriations duly made available to it by law, to furnish financial or other aid to any agency, governmental or otherwise, or any owner or operator of lands within the district, in the carrying on of erosion control and prevention operations within the district, subject to such conditions as the commissioners may deem necessary to advance the purposes of this article.

(e) Consistent with Section 29-5-2.2, to obtain options upon and to acquire by purchase, exchange, lease, gift, grant, bequest, or devise, any property, real or personal, or rights or interests therein, and all such property shall be exempt from

state, county, or municipal taxation; to maintain, administer, and improve any properties acquired, to receive income from such properties and to expend such income in carrying out the purposes and provisions of this article; and consistent with Section 29-5-2.2, to sell, lease, or otherwise dispose of any of its property or interests therein in furtherance of the purposes and the provisions of this article. Notwithstanding any provisions of general law to the contrary, no land or interest therein described under this subsection shall be acquired for recreational purposes by eminent domain proceedings after January 1, 1969.

(f) To make available, on such terms as it shall prescribe, to landowners and operators within the district, agricultural and engineering machinery and equipment, fertilizer, seeds, and seedlings, and such other material or equipment, as will assist such landowners and operators to carry on operations upon their lands for the conservation of soil and water resources and for the prevention and control of soil erosion, and to purchase comprehensive insurance on such agricultural and engineering equipment.

(g) To construct, improve, and maintain such structures as may be necessary or convenient for the performance of any of the operations authorized in this article, with the consent of two-thirds (2/3) of the landowners owning sixty-six and two-thirds percent (66-2/3%) of all lands affected, whether the owners of such land live within such district or not.

(h) To develop comprehensive plans for the conservation of soil and water resources and for the control and prevention of soil erosion within the district, and to bring such plans and information to the attention of owners and operators of lands within the district.

(i) To acquire by purchase or lease, and to administer, any water and soil conservation, erosion-control or erosion-prevention project located within its boundaries undertaken by the United States or any of its agencies, or by this state or any of its agencies; to manage as agent of the United States or any of its agencies, or of this state or any of its agencies, any water and soil conservation, erosion-control or erosion-prevention project within its boundaries; to act as agent for the United States or any of its agencies, or for this state or any of its agencies, in connection with the acquisition, construction, operation, or administration of any soil and water conservation, erosion-control or erosion-prevention project within its boundaries; to accept donations, gifts and contributions in money, services, materials, or otherwise, from the United States or any of its agencies, or from this state or any of its agencies, or from private sources, and to use or expend such monies, services, materials, or other contributions in carrying on its operations.

(j) To assist individual landowners or operators and organized groups, associations, or other agencies or units of

government to plan and establish recreational facilities for family use, income-producing purposes, or for community access.

(k) To enter into contracts with the approval of the Governor with any agency of the federal or state government or its political subdivisions to accomplish the objectives of this article.

(l) To collect cost-sharing funds, and to establish and implement procedures compatible with the purposes of this article for the necessary financing of water and soil conservation district activities, including the administration of any federal funds made available for the use of the district.

(m) To receive and expend funds or monies or other assets from any state or federal agency or any other source, public or private, in furtherance of the purposes of this article.

(n) To sue and be sued in the name of the district; to have a seal, which seal shall be judicially noticed; to have perpetual succession unless terminated as hereinafter provided; to make and execute contracts and other instruments, necessary or convenient to the exercise of its powers; to make, and from time to time amend and repeal rules and regulations not inconsistent with this article, to carry into effect its purposes and powers.

(o) As a condition to the extending of any benefits under this article to, or the performance of work upon, any lands not owned or controlled by this state or any of its agencies, the commissioners may require contributions in money, services,

materials, or otherwise to any operations conferring such benefits, and may require landowners and operators to enter into and perform such agreements or covenants as to the permanent use of such lands as will tend to prevent or control erosion thereon.

(p) Except for Section 29-5-2.2, no other provision with respect to the acquisition, operation, or disposition of property by other public bodies shall be applicable to a district organized hereunder unless the Legislature shall specifically so state.

SECTION 27. Section 71-3-85, Mississippi Code of 1972, is amended as follows:

71-3-85. (1) There is hereby created a commission to be known as the *** * *** Workers' Compensation Commission, consisting of three (3) members, who shall devote their entire time to the duties of the office. The Governor shall appoint the members of the commission, by and with the consent of the Mississippi State Senate, one (1) for a term of two (2) years, one (1) for a term of four (4) years, and one (1) for a term of six (6) years. Upon the expiration of each term as above set forth, the Governor shall appoint a successor for a term of six (6) years, and thereafter the term of office of each commissioner shall be for six (6) years. One (1) member shall be a person who by reason of his previous vocation or affiliation can be classed as a representative of employers, and one (1) member shall be a person who by reason of his previous vocation or affiliation can be

classed as a representative of employees. One (1) member shall be an attorney-at-law of recognized ability with at least five (5) years' active practice in Mississippi prior to his appointment. The Governor shall designate the chairman of the commission, whose term of chairman shall run concurrently with his appointment as a commissioner.

The chairman shall be the administrative head of the commission and shall have the final authority in all matters relating to assignment of cases for hearing and trial and the administrative work of the commission and its employees, except in the promulgation of rules and regulations wherein the commission shall act as a body, and in the trial and determination of cases as otherwise provided.

Upon the expiration of the term of a commissioner, he shall continue to serve until his successor has been appointed. Because cumulative experience is conspicuously essential to the proper administration of a * * * Workers' Compensation Law, it is declared to be in the public interest to continue * * * Workers' Compensation Commissioners in office as long as efficiency is demonstrated. A commissioner may be removed for cause prior to the expiration of his term, but shall be furnished a written copy of the charges against him and shall be accorded a public hearing.

Each member of the commission and each administrative law judge shall receive an annual salary fixed by the Legislature.

(2) A vacancy in the commission, if there remain two (2) members of it, shall not impair the authority of such two (2) members to act. In case of illness or continued absence for other reasons, the same authority of such two (2) members shall apply.

(3) The commission shall have the powers and duties necessary for effecting the purposes of this chapter, including the powers of a court of record for compelling the attendance of witnesses, examining them under oath, and compelling the production of books, papers, documents and objects relevant to the determination of a claim for compensation, and the power to adopt rules and regulations and make or approve the forms relating to notices of injuries, payment of claims and other purposes. The authority of the commission and its duly authorized representatives to investigate and determine claims for compensation shall include the right to enter the premises where an injury occurred, to ascertain its causes and circumstances.

(4) The office of the commission shall be situated in the City of Jackson, but hearings may be held at such places as it may deem most convenient for the proper and speedy performance of its duties. Consistent with Section 29-5-2.2, the commission is authorized, if it deems it necessary for the convenient and efficient dispatch of business, to lease office space and facilities in other than publicly owned buildings.

(5) The commission shall adopt detailed rules and regulations for implementing the purposes of this chapter at

hearings attended by the main parties interested. Such rules, upon adoption, shall be published and be at all reasonable times made available to the public and, if not inconsistent with law, shall be binding upon those participating in the responsibilities and benefits of the *** * *** Workers' Compensation Law.

(6) The commission shall adopt or approve the forms required for administering the chapter, such notices of injury, application for benefits, receipts for compensation and all other forms needed to assure the orderly and prompt operation of the law, and may require the exclusive use of any or all such approved forms.

SECTION 28. Section 73-7-3, Mississippi Code of 1972, is amended as follows:

73-7-3. (1) The board shall be authorized to employ such clerical assistance, bookkeepers, investigators and other agents as they may deem necessary to carry out the provisions of this chapter, and to fix their tenure of employment and compensation therefor. The members of the board, as well as all employees of the board except for investigators, shall file a bond with the Secretary of State in the sum of not less than Twenty-five Thousand Dollars ($25,000.00) payable to the State of Mississippi for the faithful performance of their duties. The bond shall be made by a surety company authorized to do business in this state, the premium of the bond to be paid out of any money in the board's special fund in the State Treasury.

(2) The office of the board shall be located in the greater metropolitan area of the City of Jackson, Mississippi, and if office space cannot be obtained in any state-owned building, the board, consistent with Section 29-5-2.2, is authorized to rent suitable office space and to pay therefor out of funds in the board's special fund. The board shall employ inspectors as needed, not to exceed twelve (12), who shall be full-time employees and whose salaries and duties shall be fixed by the board.

(3) The salaries of all paid employees of the board shall be paid out of the funds in the board's special fund in the State Treasury. The inspectors shall, in addition to their salaries, be reimbursed for such expenses as are allowed other state employees under the provisions of Section 25-3-41. In addition to the paying of office rent, the board is authorized to purchase necessary office furniture and equipment, stationery, books, certificates and any other equipment necessary for the proper administration of this chapter.

(4) When, in the opinion of the board, it is essential that an employee of the board work after normal working hours, the employee may receive credit for compensatory leave.

(a) The board should use the standards established by the State Personnel Board in determining whether or not the board's executive director may receive compensatory leave.

(b) Employees of the board may be granted administrative leave with pay, which means discretionary leave with pay, other than personal leave or major medical leave.

(i) The board may grant administrative leave to any employee of the board serving as a witness or juror or party litigant, as verified by the clerk of the court, in addition to any fees paid for such services, and such services or necessary appearance in any court shall not be counted as personal leave.

(ii) The board may grant administrative leave with pay to employees of the board in the event of extreme weather conditions or in the event of a man-made, technological, or natural disaster or emergency. Any employee on a previously approved leave during the affected period shall be eligible for such administrative leave granted by the board and shall not be charged for his or her previously approved leave during the affected period.

(iii) The board may grant administrative leave with pay to any employee of the board who is a certified disaster service volunteer of the American Red Cross who participates in specialized disaster relief services for the American Red Cross in this state and in states contiguous to this state when the American Red Cross requests the employee's participation. Administrative leave granted under this subparagraph shall not exceed twenty (20) days in any twelve-month period. Employees on leave under this subparagraph shall not be deemed to be an

employee of the state for purposes of workers' compensation or for purposes of claims against the state allowed under Title 11, Chapter 46, Mississippi Code of 1972. As used in this subparagraph, the term "disaster" includes disasters designated at Level II and above in American Red Cross' national regulations and procedures.

SECTION 29. Section 73-17-7, Mississippi Code of 1972, is amended as follows:

73-17-7. (1) There is hereby created the Mississippi State Board of Nursing Home Administrators. This board shall consist of seven (7) persons, in addition to the State Health Officer, or his designee, who shall be an ex officio member without voting privilege, to be appointed by the Governor with the advice and consent of the Senate, each of whom shall be a qualified elector of the State of Mississippi; the members of said board shall be selected from a list of names submitted to the Governor as provided for hereinafter. In making initial appointments, three (3) members shall be appointed for a term of two (2) years; two (2) members shall be appointed for terms of three (3) years; and two (2) members for terms of four (4) years; and until their successors are appointed and qualified; thereafter, the terms of the members of the said board shall be for four (4) years and until their successors are appointed and qualified. In the event of the occurrence of a vacancy during the term of office of its incumbent, such vacancy shall be filled for the unexpired portion

of the term. The members of this board shall include the following:

(a) One (1) educator with expertise in the field of health care and associated at the time of his appointment with an institution of higher learning within the State of Mississippi.

(b) A registered nurse.

(c) A licensed and practicing medical doctor or physician.

(d) Three (3) licensed and practicing nursing home administrators, no more than one (1) of whom shall be from the same Supreme Court district, who shall have had at least five (5) years' actual experience as a nursing home administrator.

(e) A hospital administrator.

Only the board members who are nursing home administrators may have a direct financial interest in any nursing home.

The Mississippi Nurses Association may submit a list of nominees for the appointment of the registered nurse member; the Mississippi State Medical Association may submit a list of nominees for the appointment of the medical doctor or physician member; the Mississippi Health Care Association and the Mississippi Health Facilities Association may submit lists of nominees for the appointment of the nursing home administrator members; and the Mississippi State Hospital Association may submit a list of nominees for the appointment of the hospital administrator member. Any such list of nominees shall be

submitted at least thirty (30) days before the expiration of the term for each position.

Vacancies occurring on the board shall be filled by appointment by the Governor of individuals having the same prerequisite qualifications as required by this section for the vacancy being filled. The affected group may submit a list of nominees not more than thirty (30) days after a vacancy occurs.

(2) The board shall organize by selecting annually from its members a chairman and a vice chairman, and may do all things necessary and convenient for carrying into effect the provisions of this chapter and may from time to time promulgate rules and regulations. Each member of the board shall receive a per diem as provided in Section 25-3-69, plus travel and reasonable necessary expenses incidental to the attendance at each meeting as provided in Section 25-3-41. Any member who shall not attend two (2) consecutive meetings of the board shall be subject to removal by the Governor. The chairman of the board shall notify the Governor in writing when any such member has failed to attend two (2) consecutive regular meetings.

(3) The board shall adopt a seal.

(4) The board is hereby authorized to acquire office space, consistent with Section 29-5-2.2, and to employ such personnel as shall be necessary in the performance of its duties, including a secretary-treasurer, who shall be bonded in an amount to be fixed

by the board, but in no event less than the amount of Five Thousand Dollars ($5,000.00).

(5) All fees and any other monies received by the board shall be deposited in a special fund that is created in the State Treasury. The monies in the special fund shall be subject to all provisions of the state budget laws that are applicable to special fund agencies. Any interest earned on this special fund shall be credited by the State Treasurer to the fund and shall not be paid into the State General Fund.

SECTION 30. Section 73-39-57, Mississippi Code of 1972, is amended as follows:

73-39-57. The board may:

(a) Adopt, amend or repeal all rules necessary for its government and all regulations necessary to implement this chapter, including the establishment and publication of standards of practice and professional conduct for the practice of veterinary medicine.

(b) Adopt, promulgate and enforce rules and regulations relating to specific duties and responsibilities; certification, registration or licensure; and other matters pertaining to veterinary technicians or nonlicensed persons consistent with this chapter.

(c) Initiate disciplinary procedures, hold hearings, reprimand, suspend, revoke or refuse to issue or renew credentials

and perform any other acts that may be necessary to regulate veterinary technicians and technologists.

(d) Examine by established protocol the qualifications and fitness of applicants for a license to practice veterinary medicine in this state.

(e) Issue, renew or deny the licenses and temporary permits to practice veterinary medicine.

(f) Limit, suspend or revoke the licenses of disciplined veterinarians or otherwise discipline licensed veterinarians consistent with this chapter and applicable rules and regulations.

(g) Establish and publish annually a schedule of fees for licensing and certification.

(h) Conduct investigations of suspected violations of this chapter to determine whether there are sufficient grounds to initiate disciplinary proceedings.

(i) Inspect veterinary premises and equipment, including practice vehicles, on a triennial basis and assess an inspection fee in the amount of One Hundred Dollars ($100.00) per inspection and an additional fee of Fifty Dollars ($50.00) for each licensed veterinarian employed by the inspected veterinary establishment.

(j) Hold hearings on all matters properly brought before the board, to administer oaths, receive evidence, make necessary determinations and enter orders consistent with the

findings. The board may require by subpoena the attendance and testimony of witnesses and the production of papers, records or other documentary evidence and commission depositions. The board may designate one or more of its members to serve as its hearing officer. The board shall adopt rules and regulations for hearings before the board and the rules shall afford any person appearing before the board the safeguards of procedural due process. Formal rules of evidence shall not apply.

(k) Employ full- or part-time personnel necessary to implement this chapter and consistent with Section 29-5-2.2, purchase or rent necessary office space, equipment and supplies.

(l) Appoint from its own membership one or more members to act as representatives of the board at any meeting within or outside the state.

(m) Bring proceedings in the courts against any person for the enforcement of this chapter or any regulations made pursuant thereto.

The powers enumerated herein are granted for the purpose of enabling the board to supervise effectively the practice of veterinary medicine and veterinary technology and are to be construed liberally to accomplish this objective.

SECTION 31. Section 99-18-13, Mississippi Code of 1972, is amended as follows:

99-18-13. (1) The State Defender is hereby empowered to pay and disburse salaries, employment benefits and charges relating to

employment of division staff and to establish their salaries and expenses of the office; consistent with Section 29-5-2.2, to incur and pay travel expenses of staff necessary for the performance of the duties of the office; to rent or lease on such terms as he may think proper such office space as is necessary in the City of Jackson to accommodate the staff; to enter into and perform contracts and to purchase such necessary office supplies and equipment as may be needed for the proper administration of said offices within the funds appropriated for such purpose; and to incur and pay such other expenses as are appropriate and customary to the operation of the office.

(2) The State Defender may provide representation to youth in delinquency and child in need of supervision proceedings and parents or guardians who have been determined by the youth court judge to be indigent in an abuse, neglect or termination of parental rights proceeding or appeal therefrom. Representation may be provided by staff or contract counsel including, but not limited to, by contract with legal services organizations.

SECTION 32. Section 99-39-113, Mississippi Code of 1972, is amended as follows:

99-39-113. In addition to the authority to represent persons under sentence of death in state post-conviction proceedings, the director is hereby empowered to pay and disburse salaries, employment benefits and charges relating to employment of staff and to establish their salaries and expenses of the office; to

incur and pay travel expenses of staff necessary for the performance of the duties of the office; consistent with Section 29-5-2.2, to rent or lease on such terms as he may think proper such office space as is necessary in the City of Jackson to accommodate the staff; to solicit and accept monies, gifts, grants or services from any public or private sources for the purpose of funding, operating and executing the statutory duties of the office; to enter into and perform contracts, including, but not limited to, contracts and agreements necessary to obtain and receive monies, gifts, grants or services from federal, public and private sources, and to purchase such necessary office supplies and equipment as may be needed for the proper administration of said offices; and to incur and pay such other expenses as are appropriate and customary to the operations of the office. The director shall be required to obtain a surety bond in the amount of not less than One Hundred Thousand Dollars ($100,000.00) payable to the state. The cost of such bond shall be paid out of funds appropriated for the operations of the office. All salaries and other expenditures shall be paid from funds appropriated for such purposes augmented by funds received as gifts and grants from public and private sources.

SECTION 33. This act shall take effect and be in force from and after its passage.