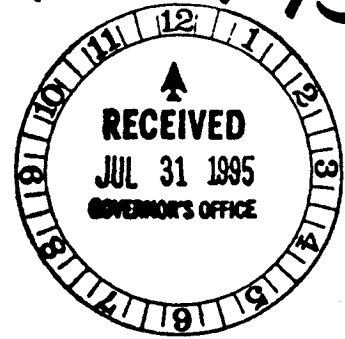


95-775

Rep. Spratt

H. 819



Enrolled, An Act,

To authorize the governing bodies of all Class 1 municipalities within the state and the county governing bodies in which the Class 1 municipalities are located and the governing bodies of all municipalities located within those counties, and where any such municipality is also located partially within an adjoining county, then the governing body of such adjoining county to establish intercooperative public corporations for efficient compliance with applicable federal and state laws, rules and regulations relating to storm water discharges into municipal separate storm sewers; to provide the designated governing bodies of counties and municipalities within the state with the legal authority to control the contribution of pollutants to municipal storm sewers by storm water discharges associated with industrial activity, as well as illicit discharges and other discharges not composed entirely of storm water, to the extent the same is required under federal and state regulations; to authorize the counties and municipalities the option to participate with the public corporation; to authorize the public corporation to employ individuals directly or indirectly, to contract services, to purchase real and personal property, to construct and operate storm water facilities, to undertake studies and develop

1 information regarding storm water runoff, to adopt policies,
2 procedures, and rules applicable to its members, to develop
3 pro forma remedies and procedures for enforcement of
4 resolutions and ordinances, to sue and be sued except as
5 immunized hereby, to establish the cost, charges, fees, or
6 assessments necessary to fund operations and activities, to
7 establish procedure for assessment and collection by the tax
8 assessor and tax collector of such cost, charges, fees, or
9 assessments levied by a member governing body, to authorize
10 its agents to enter public or private property to investigate
11 contamination with immunity from trespass, to conduct public
12 hearings in the development of pro forma regulations and
13 ordinances; to exempt the property and income and conveyances
14 of or by the public corporation from state and local taxation
15 and probate fees and taxes; to immunize the public corporation
16 from civil suit and its board members and employees from
17 liability for official duties; to confirm the governmental
18 function of the public corporations' activities; to confirm
19 the same or similar authority, powers, and immunity of
20 governing bodies to control, prohibit, and enforce storm water
21 laws and regulations; to confirm governing bodies' authority
22 to adopt resolutions and ordinances to implement the storm
23 water laws and procedures and this act and to participate in
24 the public corporation and with other governing bodies and to
25 authorize the governing bodies to establish fees, charges, or
26 assessments without referendum unless required by the
27 Constitution, to authorize the levy and collection thereof by

1 the tax assessor and tax collector, to establish by resolution
2 or ordinance necessary enforcement measures, civil suit, and
3 injunctive remedies; to confirm governing bodies' eminent
4 domain authority; to require the tax assessor and tax
5 collector to assist in the collection of fees, charges, and
6 assessments, to establish a lien therefor and a collection
7 commission, to exclude the Alabama Department of Environmental
8 Management permittees, to confirm the continuing authority of
9 the Alabama Department of Environmental Management and other
10 state agencies; to declare the severability provisions and to
11 establish an effective date.

12 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

13 Section 1. (a) The Legislature finds and declares
14 that it is in the public interest and the health, safety, and
15 welfare of the citizens of this state and within the police
16 power of the state, county, and municipal governments to
17 promote effective and efficient compliance with federal and
18 state laws, rules, regulations, and municipal permits relating
19 to storm water discharges into municipal separate storm
20 sewers, and to promote and authorize the discovery, control,
21 and elimination, wherever practicable, of that discharge at
22 the local government level.

23 (b) It is the intention of the Legislature by
24 passage of this act to assist the state in its implementation
25 of the storm water laws, and to supplement the authority of
26 the governing bodies of all counties and municipalities in the
27 state to enable them to implement the storm water laws.

1 (c) It is further the intention of the Legislature
2 to authorize and promote the intercooperation of the governing
3 bodies in implementing the storm water laws and the purposes
4 of this act.

5 (d) It is further the intention of the Legislature
6 to authorize governing bodies to determine the methods and
7 procedures they shall use to carry out the storm water laws
8 and this act, to make their respective participation in a
9 public corporation intercooperation program optional, and to
10 adopt policies and procedures pertaining to their
11 responsibilities in the program and the procedure for entry
12 into and exit from the program. It is the intention of the
13 Legislature to grant the governing bodies, whether in the
14 program or acting individually, the enforcement authority
15 needed in order to satisfy the requirements of storm water
16 laws, further, to act by resolution or ordinance enforceable
17 in their respective municipal courts or the district courts
18 and by civil procedures in district and circuit courts,
19 including fines, penalties, damages, and injunction as
20 authorized and appropriate. It is the intention of the
21 Legislature to grant governing bodies the authority to
22 determine their financial needs to fund the administration,
23 operations, and projects of the program, their individual
24 needs, and the methods to generate and collect the necessary
25 revenue and to authorize the use of the assessment, billing,
26 and collection capabilities and authority of the respective
27 county tax assessors and tax collectors for that purpose.

1 Section 2. As used in this act, the following words
2 and phrases shall have the following meanings:

3 ~~(1) GOVERNING BODY. The governing body of one or~~
4 ~~more counties or municipalities in the state which are now or~~
5 ~~hereafter specifically designated in 40 C.F.R. Part 122,~~
6 ~~Appendices F, G, H, or I, or by ADEM pursuant to the authority~~
7 ~~delegated to it under the Clean Water Act, 33 U.S.C. 51251 et~~
8 ~~seq.~~

9 (1) GOVERNING BODY. The governing bodies of all
10 Class 1 municipalities within the state and the county
11 governing bodies in which the Class 1 municipalities are
12 located and the governing bodies of all municipalities located
13 within those counties, and where any such municipality is also
14 located partially within an adjoining county, then the
15 governing body of such adjoining county, and which governing
16 bodies are specifically designated in 40 C.F.R. part 122,
17 Appendices F, G, H, or I or by ADEM pursuant to the authority
18 delegated to it under the Clean Water Act, 33 U.S.C. Section
19 1251, et seq., as of the effective date of this act.

20 (2) ILLICIT DISCHARGE. Any discharge to a municipal
21 separate storm sewer that is not composed entirely of storm
22 water, except discharges pursuant to an NPDES permit (other
23 than the NPDES permit for discharges from the municipal
24 separate storm sewer) and discharges resulting from fire
25 fighting and emergency management activities.

26 (3) MEMBER GOVERNING BODY. A governing body that
27 joins a public corporation established pursuant to this act.

1 (4) MUNICIPAL SEPARATE STORM SEWER. A conveyance or
2 system of conveyances, including roads with drainage systems,
3 municipal streets, catch basins, curbs, gutters, ditches,
4 manmade channels, or storm drains:

5 (i) Owned or operated by a city, town, county,
6 association, or other public body;

7 (ii) Designed or used for collecting or conveying
8 storm water;

9 (iii) Which is not a combined sewer; and

10 (iv) Which is not part of a publicly owned
11 treatment works as defined in 40 C.F.R. §122.2.

12 (5) PUBLIC CORPORATION. Any public corporation
13 created pursuant to this act.

14 (6) RULE. Any public corporation regulation or
15 standard of general applicability that prescribes or
16 recommends law, procedure or policy for its member governing
17 bodies specifically including all pro forma ordinances,
18 regulations, resolutions, rules, procedures or remedies
19 adopted and recommended by a public corporation.

20 (7) STORM WATER DISCHARGE ASSOCIATED WITH INDUSTRIAL
21 ACTIVITY. The discharge from any conveyance which is used for
22 collecting and conveying storm water and which is directly
23 related to manufacturing, processing, or raw materials storage
24 areas at an industrial plant. The term does not include
25 discharges from facilities or activities excluded from the
26 NPDES program under 40 C.F.R. Part 122, but shall include
27 discharges from facilities which are included in the

1 categories of industries listed in 40 C.F.R. §122.26(b)(14)(i)
2 through (xi), inclusive, together with all subsequent
3 categories of industries which may be so designated in 40
4 C.F.R. §122.26(b)(14) by the Environmental Protection Agency
5 (EPA).

6 (8) STORM WATER LAWS. Those provisions of the Clean
7 Water Act, 33 U.S.C. §1251 et seq., together with all other
8 and subsequent applicable federal and state laws, rules,
9 regulations, and municipal permits relating specifically to
10 the control of the pollution of storm water discharges to
11 Municipal Separate Storm Sewers.

12 Section 3. (a) Three or more natural persons who
13 are either the mayor of a municipality or the chair of a
14 county governing body of a county or counties in which a
15 municipality is wholly or partially situated, may file with
16 their respective governing bodies a written application to
17 incorporate a public corporation pursuant to this act. If
18 each of the governing bodies adopts a resolution declaring
19 that the formation of a public corporation is wise, expedient,
20 and necessary, and approves the proposed certificate of
21 incorporation, the incorporators shall proceed to incorporate
22 the public corporation pursuant to this act by executing and
23 filing for record in either the office of the judge of probate
24 of the participating county having the largest population
25 according to the last federal decennial census, or, if there
26 is not a participating county, in any county in which the
27 municipality with the largest population according to the last

1 federal decennial census is situated, a certificate of
2 incorporation together with certified copies of the resolution
3 of each approving governing body. Any governing body that
4 fails to approve its participation in the public corporation
5 shall be removed from the certificate of incorporation. The
6 incorporation may proceed with the officials of the remaining
7 three or more governing bodies. The certificate of
8 incorporation shall include the following:

9 (1) The names of the incorporators and their
10 official county or municipal office.

11 (2) The name of the public corporation.

12 (3) The duration of the public corporation which
13 shall be perpetual.

14 (4) The location of the principal office of the
15 public corporation.

16 (5) A statement that the corporation is organized
17 pursuant to this act.

18 (6) Any other matters relating to the corporation
19 that the incorporators may choose to insert and that are not
20 inconsistent with this act of the laws of this state.

21 (b) Upon the filing for record of the certificate of
22 incorporation and required attachments, the corporation shall
23 come into existence and shall constitute a public corporation
24 under the name set forth in the certificate of incorporation.
25 The judge of probate shall send a notice to the Secretary of
26 State that the certificate of incorporation of the public
27 corporation has been filed for record. After filing, the

1 certificate of incorporation may be amended in the manner
2 provided by the board of directors of the public corporation.

3 Section 4. (a) Any public corporation created
4 pursuant to this act shall have the following powers:

5 (1) To establish, maintain, and operate an
6 organizational structure pursuant to this act, its original or
7 amended certification, and its bylaws or other rules of
8 procedure, that will enable it to implement the storm water
9 laws for and on behalf of any governing body that exercises
10 the option to participate in or with a public corporation,
11 however, except for the authority provided in Section 4 (20),
12 hereof, authority to enforce the storm water laws is retained
13 wholly and exclusively to the governing bodies and may not be
14 further delegated to or assumed by the public corporation, its
15 agents or employees.

16 (2) To establish the procedure by which a member
17 governing body may elect to join and to withdraw from the
18 public corporation.

19 (3) To establish a board of directors to serve as
20 the governing body of the corporation to establish policy and
21 procedure for the corporation. The board shall consist of one
22 representative from each member governing body. The
23 representative shall be the mayor, if the member governing
24 body is a governing body of a municipality, or a county
25 commissioner, if the member governing body is a governing body
26 of a county. The board shall designate at least three
27 members, and no more than five members, to serve as an

1 executive committee to perform the executive and
2 administrative functions of the corporation. The executive
3 committee shall include one county commissioner from the
4 largest county member governing body, if there is one, and at
5 least two mayors. If there is no county member governing
6 body, there shall be at least three mayors; or if there are no
7 participating municipalities, there shall be at least three
8 county commissioners, representing different counties. The
9 board shall elect one executive committee member as chair, one
10 as co-chair, and one as secretary. Individual board and
11 executive committee members shall serve without compensation,
12 but shall be entitled to reasonable actual expenses that are
13 properly documented and authorized. All other needed
14 organizational matters, bylaws, rules of procedure, and
15 officers shall be determined by the board of directors.

16 (4) To employ individuals directly or indirectly
17 through loaned, detailed, or assigned employees from the
18 member governing bodies or other entities. Employees directly
19 employed by the public corporation shall be eligible to
20 participate in the employee benefit programs of any member
21 governing body, including insurance and pension programs, upon
22 approval of the executive committee and the subject member
23 governing body.

24 (5) To enter into contracts with individuals,
25 governing bodies, member governing bodies, governmental
26 agencies, professional associations, corporations,

1 partnerships, and other legal entities to implement the
2 functions of this act.

3 (6) To purchase, lease, license, own, or otherwise
4 acquire real and personal property, including easements,
5 rights of way, and all other interests in land, including
6 municipal separate storm sewers, buildings, and other
7 facilities and equipment.

8 (7) To construct, operate, maintain, repair, and
9 replace facilities for storm water functions.

10 (8) To contract with member governing bodies for the
11 construction, improvement, renovation, management, or
12 operation of their municipal separate storm sewer systems.

13 (9) To purchase or obtain insurance and other
14 appropriate tangibles and intangibles.

15 (10) To apply for, solicit, and otherwise obtain and
16 receive from any governmental, public, or private source,
17 grants contributions, and donations, of money, all forms of
18 property, equipment, supplies, services, and labor.

19 (11) To hold and invest its moneys in all legal
20 forms of investment for fiduciaries.

21 (12) To salvage, lend, lease, or sell by cash or
22 installment, with or without interest, its lands, interest in
23 land, facilities, equipment, and other property.

24 (13) To undertake or participate in studies,
25 surveys, analyses, or investigations of storm water runoff and
26 other functions of the storm water laws and this act.

1 (14) To adopt necessary and appropriate policies,
2 procedures, rules, and regulations applicable to the member
3 governing bodies in accordance with EPA and/or ADEM permits
4 and rules and regulations to implement the storm water laws
5 and the functions of this act.

6 (15) To develop and hold public hearings on pro
7 forma resolutions or ordinances, or both, which may be adopted
8 by any member governing body to implement this act.

9 (16) To develop pro forma remedies and procedures
10 for the enforcement of resolutions or ordinances, or both,
11 adopted to implement this act.

12 (17) To sue and be sued, except as immunized hereby,
13 in its own name and to appear in all administrative forums.

14 (18) To establish the cost, charges, fees, or
15 assessments as required of the member governing bodies for
16 participation in the public corporation, necessary to fund the
17 operation, activities, projects, and facilities of the
18 corporation.

19 (19) To establish the procedure for the assessment
20 and collection by the tax assessor and tax collector of the
21 respective counties or other public official performing those
22 functions, of any fees, charges, or assessments levied by a
23 member governing body.

24 (20) To authorize any officer, employee, or other
25 agent of the public corporation to enter upon private or
26 public property during normal business hours and upon the
27 presentation of appropriate credentials for the purpose of

1 performing investigations regarding the existence and source
2 of contamination, and determining from the owner or other
3 appropriate individual the methods they will employ to stop,
4 neutralize, remove, or otherwise remedy the contamination.
5 Any officer, employee, or other authorized agent who performs
6 the duties authorized under this section in accordance with
7 provisions hereof shall be immune from arrest and prosecution
8 for trespass in performing any legal duty pursuant to this act
9 by presenting identification issued or authorized by the
10 public corporation.

11 (21) To do any and all things necessary or
12 convenient to implement and administer this act.

13 (b) In the development of any rule or procedures for
14 the enforcement of such, any public corporation created
15 pursuant to this act shall do all of the following:

16 (1) Set a date and time for a public hearing and
17 afford the public and interested parties an opportunity to
18 offer written comments, and to present testimony and evidence
19 in support of their respective positions as to the proposed
20 resolutions, ordinances, remedies, or procedures and may have
21 counsel to represent them at their own expense. The board of
22 the corporation shall consider fully all written and oral
23 submissions presented. At the conclusion of this hearing and
24 any continuation thereof, the board of the corporation may
25 modify or withdraw such proposals or may adopt such pro forma
26 resolutions, ordinances, remedies, or procedures which are
27 reasonable and supported by evidence from the proposal itself,

1 the public comments submitted thereupon and the public hearing
2 record and which shall be thereafter presented to the member
3 municipal or county governing bodies, or both, for their
4 consideration. Adoption of any rule shall require an
5 affirmative vote of at least two-thirds (2/3) of the members
6 of the board of the corporation. Upon adoption of a rule, the
7 public corporation shall issue a statement reflecting the
8 reasoning and evidence supporting adoption of the rule and an
9 explanation for rejecting the evidence or assertions made
10 urging modification or withdrawal of the rule.

11 (2) Give notice of the hearing by publishing in a
12 newspaper of general circulation published within the county
13 in which the corporation members exist at least 30 days prior
14 to the date of the hearing stating the date, time, and
15 location of the hearing, and including either the terms or the
16 substance of the proposals to be considered or a description
17 of the subjects and issues involved, the address of the
18 location where copies of the proposed resolution, ordinances,
19 remedies and procedures may be inspected or copies thereof
20 obtained, and the manner in which interested persons may
21 present their views thereon. Every proposed rule shall be
22 accompanied by a thorough statement identifying and explaining
23 the purpose and support for its adoption. The notice shall
24 also be mailed to all persons who pay the cost of the mailing
25 and who have made timely request of the corporation in advance
26 for advance notice of any such hearings.

1 (3) Make available for public inspection and
2 copying, at cost, any such proposed resolutions, ordinances,
3 remedies, and procedures at least thirty 30 days prior to the
4 hearing.

5 (c) The governing bodies shall satisfy all statutory
6 requirements applicable to the respective governing bodies for
7 adoption of ordinances, including notice and public hearing,
8 before adopting any such pro forma resolutions, ordinances,
9 remedies, and procedure , however, adoption by a member
10 governing body of any ordinance or resolution recommended by
11 the board of the public corporation or authorized by this
12 statute shall require an affirmative vote of at least a
13 majority of the members of the council or commission
14 authorized to adopt such ordinances or resolutions in the
15 governing body.

16 Section 5. The property and income of any public
17 corporation, and any conveyance, lease, mortgage, deed of
18 trust, or trust indentures by or to the public corporation
19 shall be exempt from all state and local taxation. The public
20 corporation shall not be obligated to pay any fees, taxes, or
21 costs to the judge of probate of any county for its
22 incorporation, the amendment of its certificate of
23 incorporation, or the recording of any document, including,
24 but not limited to, deeds, leases, and easements.

25 Section 6. Member governing bodies are granted the
26 power of eminent domain and may exercise the power in the

1 manner provided by law for the purpose of obtaining real
2 property and facilities to implement this act.

3 Section 7. Any public corporation shall be a
4 nonprofit corporation, and no part of its net earnings shall
5 inure to the benefit of any individual, firm, or corporation.
6 In the event of dissolution of a public corporation, if the
7 board of directors of the public corporation determines that
8 sufficient provision has been made for the full payment of the
9 expenses and other obligations, then any net earnings
10 thereafter existing shall be paid to the member governing
11 bodies of the public corporation provided, such amounts so
12 paid out shall only be used by the member governing bodies for
13 storm water purposes and no other purpose.

14 Section 8. (a) Any public corporation shall be
15 immune from civil suit for damages to the same extent as a
16 department of state government.

17 (b) No board member, executive committee member, or
18 individual employee, whether employed directly by a public
19 corporation or on loan, detail, or other form of assignment to
20 a public corporation, shall incur any personal, civil, or
21 criminal liability for the performance of any official duty
22 pursuant to this act, except for an act involving willful
23 misconduct, illegal activity, gross or wanton negligence, or
24 bad faith.

25 (c) While in the performance of any employment,
26 duty, or responsibility for and on behalf of the public
27 corporation, no individual employee, board member, or

1 committee member shall be deemed an agent or employee for
2 purposes of civil liability for claims and damages of any
3 county, municipality, or member governing body.

4 (d) Official acts of public corporations and
5 individuals pursuant to this act shall be deemed a
6 governmental function of the state imposed by federal and
7 state laws for the benefit of the public generally, for which
8 the corporations and individuals are immune, and no member
9 governing body shall be legally responsible for any of their
10 official actions, except for an act involving willful
11 misconduct, willful illegal activity, gross or wanton
12 negligence, or bad faith.

13 Section 9. (a) A governing body may proceed under
14 this act as a participant in the public corporation or
15 individually, to adopt upon reasonable public notice and
16 following public hearing all necessary rules and regulations
17 by resolution or ordinance to implement this act and to
18 specifically regulate and control storm water discharges and
19 eliminate the discharge of pollutants to its municipal
20 separate storm sewers. The rules and regulations adopted
21 pursuant to this act shall be in accordance with those
22 contained in the EPA NPDES program; however, the rules and
23 regulations shall not impose any additional requirements than
24 those mandated by the EPA. In furtherance of these
25 objectives, the governing bodies may do all of the following:
26 (1) Control by resolution, ordinance, contract,
27 order, or similar means the discharge of pollutants to its

1 municipal separate storm sewers by storm water discharges
2 associated with industrial activity and the quality of storm
3 water discharged from sites of industrial activity.

4 (2) Prohibit by resolution, ordinance, order, or
5 similar means illicit discharges to its municipal separate
6 storm sewers.

7 (3) Control by resolution, ordinance, order, or
8 similar means the discharge to its municipal separate storm
9 sewers of spills, dumping, or disposal of materials other than
10 storm water.

11 (4) Control by interagency or intercooperation
12 agreements among the governing bodies and other entities the
13 discharge of pollutants from one portion of its municipal
14 storm water system to another portion.

15 (5) Require compliance with conditions in
16 resolutions, ordinances, contracts, or orders.

17 (6) Enter upon private property upon reasonable
18 notice to the owner and the person in possession thereof and
19 during normal business hours and upon the presentation of
20 appropriate credentials for the purpose of performing
21 investigations regarding the existence and source of
22 contamination and determining from the owner or other
23 appropriate individual the methods which they will employ to
24 stop, neutralize, remove, or otherwise remedy the
25 contamination, and as needed to determine compliance or
26 non-compliance with permit conditions, including any
27 prohibition of illicit discharges to its municipal separate

1 storm sewers. Any officer, employee, or other authorized
2 agent who performs the duties authorized under this section in
3 accordance with provisions hereof shall be immune from arrest
4 and prosecution for trespass while performing any legal duty
5 pursuant to this act by presenting identification issued from
6 the county or municipality authorized by the governing bodies.

7 (b) The governing bodies may develop and adopt
8 common and uniform or partly common and partly uniform
9 resolutions, ordinances, contracts, orders, or similar means
10 in their respective actions and procedures to implement this
11 act.

12 (c) Any governing body may join with any other
13 governing body to establish or participate in or with a public
14 corporation, or with any other public corporation, authority,
15 or district authorized by the Legislature to implement this
16 act. In furtherance of this objective, any governing body may
17 perform any of the functions and powers provided in Section 4
18 for public corporations, and any function or eligibility
19 requirement provided or required for joining and
20 participating, and to transfer and convey to the public
21 corporation, with or without consideration, any facilities,
22 real or personal property, money, or thing of value, including
23 the services of employees through loan, detail, or assignment.

24 (d) Any governing body may establish, levy, and
25 impose by resolution or ordinance, any revenue-raising measure
26 within its jurisdiction, including, but not limited to, fees,
27 charges, or assessments, without any referendum unless

1 required by the Constitution of Alabama of 1901, deemed
 2 necessary to implement this act or to comply with all
 3 provisions of storm water laws. Any such fee, charge, or
 4 assessment may be levied and collected in any manner
 5 permissible by law. In addition, any such measure may include
 6 incentive provisions including reductions of waiver of all or
 7 part of such fee, charge, or assessment where the responsible
 8 entity constructs, installs, or otherwise employs or utilizes
 9 any structure, service, equipment, or system to reduce or
 10 eliminate storm water pollution. Any governing body may call
 11 upon and enter into agreements with the respective tax
 12 assessor and tax collector or other public official performing
 13 the function of the tax assessor and tax collector to assess
 14 and collect any such fees, charges, or assessments.

15 (e) Any governing body may establish by resolution
 16 or ordinance necessary enforcement measures and procedures for
 17 the enforcement of rules, regulations, resolutions,
 18 ordinances, or orders through actions before a municipal,
 19 district or circuit court of competent jurisdiction, including
 20 penalties for violations in accordance with Section 11-45-9,
 21 Code of Alabama 1975.

22 (f) Any governing body may institute a civil suit
 23 for damages or injunctive relief, except as limited by Section
 24 11 and Section 12 , in any district or circuit court having
 25 jurisdiction for a violation of this act. Damages may include
 26 all costs, expenses, or other losses resulting directly or
 27 indirectly from a violation of any rule, regulation,

1 resolution, ordinance, order, or other pro- vision authorized
2 by this act, and may include attorney's fees, court costs, and
3 trial expenses.

4 (g) A governing body may do any and all things,
5 whether or not specifically or expressly authorized in this
6 section or act, not otherwise prohibited by law, that are
7 necessary and convenient to do individually, and to aid and
8 cooperate with the public corporation or other entity in
9 carrying out the storm water laws and the purposes and intent
10 of this act.

11 Section 10. (a) The tax assessor and the tax
12 collector, or other public official performing the functions
13 of the tax assessor and tax collector, of every county in this
14 state shall, upon request, implement procedures necessary and
15 appropriate in order to assess and collect the fees, charges,
16 or assessments levied by any governing body or member
17 governing body, whether or not related to the value of any
18 land.

19 (b) The fees, charges, or assessments shall be a
20 lien upon any land to which it may be levied, and shall be
21 assessed, collected, and enforced as are other ad valorem
22 taxes. Each county collecting such fee, charge, or assessment
23 shall receive a two percent commission on all amounts levied
24 and collected which shall be deposited to the county general
25 fund.

26 Section 11. Notwithstanding any provision to the
27 contrary set forth in this act or in any local ordinance or

1 resolution, compliance with the conditions, limitations, and
2 restrictions set forth in an NPDES permit issued by the ADEM
3 or EPA shall be deemed to be compliance for purposes of this
4 act and any ordinance or resolution adopted hereunder, and
5 such compliance shall preclude the initiation, commencement,
6 or continuation of any enforcement action authorized under
7 this act or any ordinance or resolution.

8 Section 12. (a) In no event shall any enforcement
9 action be taken by any governing body against any person for
10 an alleged violation of a local ordinance or resolution
11 pertaining to storm water discharges into a separate storm
12 sewer if any of the following occur:

13 (1) ADEM has issued a notice of violation with
14 respect to the same alleged violation, and is proceeding with
15 enforcement action;

16 (2) ADEM has issued an administrative order with
17 respect to the same alleged violation, and is proceeding with
18 enforcement action; or

19 (3) ADEM has commenced and is proceeding with
20 enforcement action or has completed any other type of
21 administrative or civil action with respect to the same
22 alleged violation.

23 (b) Any determination or resolution with respect to
24 an alleged violation made by ADEM shall be final, and such
25 alleged violation shall not be the subject of any additional
26 enforcement action by a governing body pursuant to this act or
27 any ordinance or resolution adopted thereunder, provided that

1 enforcement action may be pursued for continued or continuing
2 violations.

3 Section 13. The purpose of this act being remedial
4 in nature, it shall be liberally construed to effect its
5 purpose.

6 Section 14. Nothing in this act shall be
7 interpreted as negating, destroying, impairing, preempting,
8 superseding, or conflicting with any statutory or common law,
9 or other legal right, duty, power, or authority of ADEM, the
10 Alabama Department of Conservation and Natural Resources, the
11 Alabama Department of Public Health, or any other agency or
12 department or commission of the State of Alabama. This act
13 shall be cumulative to and in furtherance of any statutory or
14 common law or other legal right, duty, power, or authority of
15 any governing body.

16 Section 15. The provisions of this act are
17 severable. If any part of this act is declared invalid or
18 unconstitutional, that declaration shall not affect the part
19 which remains.

20 Section 16. This act shall become effective
21 immediately upon its passage and approval by the Governor, or
22 upon its otherwise becoming a law.

James S. Clark

Speaker of the House of Representatives

Don Siegelman

President and Presiding Officer of the Senate

House of Representatives

I hereby certify that the within Act originated in and was passed by the House July 11, 1995.

Greg Pappas
Clerk

Senate

July 31, 1995

Amended and Passed

House

July 31, 1995

Concurred in Senate
Amendment

APPROVED 8-8-1995

TIME 8:30 a.m.

[Signature]
GOVERNOR

Alabama Secretary of State

Act Num....: 95-775
Bill Num....: H-819

Rec'd 08/08/95 11:10am HMB