

By: Smith (39th), Chism

To: Local and Private
Legislation

HOUSE BILL NO. 1720

1 AN ACT TO AMEND CHAPTER 838, LOCAL AND PRIVATE LAWS OF 1991,
2 TO REVISE THE QUALIFICATIONS FOR APPOINTMENT TO THE BOARD OF
3 COMMISSIONERS OF THE SOUTHGATE SEWER DISTRICT IN LOWNDES COUNTY;
4 AND FOR RELATED PURPOSES.

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

6 SECTION 1. Chapter 838, Local and Private Laws of 1991, is
7 amended as follows:

8 Section 1. The Southgate Sewer District is hereby created
9 and is composed of the following described area:

10 Beginning at the point where the West boundary of the
11 Southeast Quarter (SE 1/4) of Section 31, Township 16
12 South, Range 18 West, intersects the South boundary of
13 the Columbus Air Force Base and run thence South 6 feet
14 to the center point of Section 6, Township 17 South,
15 Range 18 West; run thence East to the Southeast Corner
16 of the Northeast Quarter (NE 1/4) of said Section 6;
17 thence run South along the West boundary of Sections 5,
18 8 and 17, Township 17 South, Range 18 West to the
19 Southwest Corner of said Section 17; thence run East to
20 the Southeast Corner of said Section 17; thence run
21 North along the East boundary of Section 17 and Section
22 8, Township 17 South, Range 18 West, to the Southwest
23 Corner of the North Half of Section 9, Township 17
24 South, Range 18 West; thence run East along the South
25 boundary of the North half of Section 9 to the Southeast
26 Corner of said North Half; thence run North along the
27 East boundary of Section 9 and Section 4, Township 17

28 South, Range 18 West, to the intersection with the South
29 boundary of the Columbus Air Force Base at or near the
30 Northeast Corner of said Section 4; thence run Westward
31 along the South boundary of the Columbus Air Force Base
32 to the Point of Beginning.

33 Section 2. The Southgate Sewer District shall be and is
34 declared to be a valid political subdivision of the State of
35 Mississippi, with the power to sue and be sued and to contract and
36 be contracted with.

37 Upon the passage of this act and the appointment of the
38 initial board of commissioners, the board shall cause a notice or
39 declaration of commencement to run, within thirty (30) days, at
40 least two (2) times, within a newspaper having general circulation
41 in the district and county mentioned herein.

42 Section 3. It is declared that the object and purpose of
43 creating the district is to provide sewer service to the residents
44 of the aforesaid area and to provide ways and means to carry out
45 and accomplish such purpose, thereby benefiting and making more
46 valuable the lands in the district and preserving and promoting
47 the health, safety and convenience of the residents in the
48 district. In order to carry out and render effective the object
49 and the purpose of this act, the courts of this state shall
50 construe this act as an exercise by the Legislature of all the
51 power appertaining to it that is necessary for the benefit of the
52 health, safety and convenience of the residents of the district.
53 All the terms and provisions of this act are to be liberally
54 construed to effectuate the purposes herein set forth and all
55 powers required to accomplish the purposes of this act are granted
56 and conferred, including the power to employ engineers and
57 attorneys at such reasonable compensation as the board of
58 commissioners shall determine.

59 Section 4. From and after the effective date of this act,
60 the powers of the Southgate Sewer District shall be vested in and
61 exercised by a board of commissioners consisting of five (5)
62 members to be appointed by the Board of Supervisors of Lowndes
63 County, Mississippi. Upon their initial appointment, one (1) of
64 the commissioners shall be appointed for a term of four (4) years

65 and one (1) shall be for a term of three (3) years and one (1) for
66 a term of two (2) years and two (2) shall be appointed for the
67 term of one (1) year; thereafter, each commissioner shall be
68 appointed and shall hold office for a term of five (5) years. Any
69 vacancy occurring on the board of commissioners shall be filled by
70 the board of supervisors at a regular meeting of the board. The
71 board of supervisors shall have the authority to fill an unexpired
72 term of any commissioner or commissioners. Each commissioner
73 shall qualify for office by taking the oath required by Section
74 268 of the Constitution of Mississippi, and by the filing with the
75 chancery clerk of the county a surety bond payable to the State of
76 Mississippi in the penal sum of Ten Thousand Dollars (\$10,000.00),
77 to be approved by the chancery clerk and conditioned to provide
78 for the favorable performance of his duties as commissioner. The
79 bond premium shall be paid out of the revenues of the district.

80 The board of commissioners shall organize by electing one (1)
81 of its members as chairman and another as vice chairman and
82 another as secretary-treasurer. It shall be the duty of the
83 chairman to preside at all meetings of the board and to act as the
84 chief executive officer of the board of the district. The vice
85 chairman shall act in the absence or disability of the chairman.
86 The board also shall elect and fix the compensation of a
87 secretary-treasurer who may or may not be a member of the board.
88 It shall be the duty of the secretary-treasurer to keep a record
89 of all proceedings of the board and to safely keep all funds of
90 the district. The proceedings and records of the board shall be
91 available for inspection as other public records. The
92 secretary-treasurer shall be required to execute a bond, payable
93 to the district, in a sum and with such surety as shall be fixed
94 and approved by the board of commissioners. The terms of all
95 officers of the board shall be for one (1) year from and after the
96 date of election and shall run until their respective successors
97 are appointed and qualified. Each board of commissioners shall

98 adopt an official seal with which to attest the official acts and
99 records of the board and district.

100 Any qualified elector residing in the district shall be
101 eligible to hold the office of commissioner. The commissioners
102 shall receive reasonable compensation and other related benefits
103 for their services and shall be reimbursed for any expenses
104 necessarily incurred in the discharge of their official duties.
105 Compensation and other benefits shall not be paid to the
106 commissioners until sufficient funding is available to meet all
107 current financial obligations.

108 Section 5. Any district created pursuant to the provisions
109 of this act, acting by and through the board of commissioners of
110 the district, its governing authority, shall have the following
111 powers:

112 (a) To sue and be sued;

113 (b) To acquire by purchase, gift, devise or lease and
114 to hold and dispose of real and personal property of every kind;

115 (c) To make and enter into contracts, conveyances,
116 mortgages, deeds of trust, bonds or leases;

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

120 (e) To fix, maintain, collect and revise rates and
121 charges for the services rendered by or through the facilities of
122 such district;

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

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

128 (h) To use any right-of-way, easement or other similar
129 property right, including right of eminent domain as provided by
130 Section 11-27-81 et seq., Mississippi Code of 1972, necessary or

131 convenient in connection with the acquisition, improvement,
132 operation or maintenance of the facilities of the district, held
133 by the state or any political subdivision thereof, provided that
134 the regulations set by law or established by the governing body
135 for the use of the property are followed;

136 (i) To enter into contracts and agreements with and
137 accept grants from any agency of the United States of America,
138 State of Mississippi or any municipality relating to the
139 construction, operation, maintenance and replacement of any sewer
140 collection system or treatment facilities;

141 (j) To have the power to issue new revenue bonds to
142 finance the construction and other related purposes of the system.
143 The amount of the revenue bonds authorized to be issued shall not
144 exceed an aggregate amount of Two Million Dollars (\$2,000,000.00).
145 Except as otherwise provided in this act, all powers with respect
146 to wastewater treatment facilities granted to municipalities of
147 the state by Sections 21-27-11 through 21-27-69 and Section
148 19-5-151 et seq., Mississippi Code of 1972, including the issuance
149 of revenue bonds, are conferred upon and may be exercised with the
150 district by the board.

151 Section 6. The commission shall have full power and
152 authority to issue all bonds of the district, but before issuing
153 any bonds, the commission shall adopt a resolution declaring its
154 intention so to do, stating the amount of the bonds proposed to be
155 issued, and the date upon which the commission proposes to direct
156 the issuance of the bonds. The resolution shall be published once
157 a week for at least three (3) consecutive weeks in at least one
158 (1) newspaper qualified under the provisions of Section 13-3-31,
159 Mississippi Code of 1972, in the county in which the district lies
160 and having a general circulation in the district which lies in the
161 county. The first publication of the resolution shall be made not
162 less than twenty-one (21) days prior to the date fixed in the
163 resolution for the issuance of the bonds, and the last publication

164 shall be made not more than seven (7) days prior to such date. If
165 ten percent (10%) of the users of the district shall file a
166 written protest against the issuance of such bonds on or before
167 the date specified in such resolution, then an election on the
168 question of the issuance of such bonds shall be called and held in
169 the manner to be provided by the commission by rules and
170 regulations promulgated prior to the adoption of the resolution
171 declaring the commission's intention to issue the bonds.

172 Section 7. There shall be and there is created a statutory
173 lien in the nature of a mortgage lien upon any system or systems
174 acquired or constructed in accordance with this act, including all
175 extensions and improvements thereof or combinations thereof
176 subsequently made. The statutory lien shall be in favor of the
177 holder or holders of any bonds issued pursuant to this act and all
178 such property shall remain subject to the statutory lien until the
179 payment in full of the principal of and interest on the bonds.
180 Any holder of the bonds or any of the coupons representing
181 interest thereon may either at law or in equity, by suit, action,
182 mandamus or other proceedings, in any court of competent
183 jurisdiction, protect and enforce such statutory lien and compel
184 performance of all duties required by this act, including the
185 making and collection of sufficient rates for the service or
186 services, the proper accounting thereof, and the performance of
187 any duties required by covenants with the holders of any bonds
188 issued in accordance with this act.

189 If any default is made in the payment of the principal of or
190 interest on the bonds, any court having jurisdiction of the action
191 may appoint a receiver to administer the district and the system
192 or systems, with power to charge and collect rates sufficient to
193 provide for the payment of all bonds and obligations outstanding
194 against the system or systems and for the payment of operating
195 expenses and to apply the income and revenues in conformity with
196 the provisions of this act and any covenants with bondholders.

197 Section 8. No holder or holders of any bonds issued pursuant
198 to this act shall ever have the right to compel the levy of any
199 tax to pay the bonds or the interest thereon. Each bond shall
200 recite in substance that the bond and interest thereon is payable
201 solely from the revenue pledged to the payment thereof and that
202 the bond does not constitute a debt of the district within the
203 meaning of any statutory limitation.

204 Section 9. The board of commissioners of the district
205 issuing bonds pursuant to this act shall prescribe and collect
206 reasonable rates, fees, tolls or charges for the services,
207 facilities and commodities of its system or systems, shall
208 prescribe penalties for nonpayment, and shall revise the rates,
209 fees, tolls or charges from time to time whenever necessary to
210 insure that the system or systems shall be and always remain
211 self-supporting. The rates, fees, tolls or charges prescribed
212 shall always produce revenue at least sufficient (a) to provide
213 for all expenses of operation and maintenance of the system or
214 systems, including reserves, and (b) to pay when due all bonds and
215 interest thereon for the payment of which the revenues are or
216 shall have been pledged, charged or otherwise encumbered,
217 including reserves.

218 Section 10. The property and revenue of the district shall
219 be exempt from all state, county and municipal taxation. Bonds
220 issued pursuant to this act and the income therefrom shall be
221 exempt from all state, county and municipal taxation, except
222 inheritance, transfer and estate taxes, and it may be so stated on
223 the face of the bonds.

224 Section 11. Any area adjacent to any district created
225 pursuant to this act and situated within the same county as the
226 district may be annexed to and become a part of the district by
227 the procedure prescribed below:

228 (a) The board of supervisors, after due investigation,
229 may adopt a resolution finding and determining (i) that the public

230 convenience and necessity require extension of the district and
231 (ii) that the extension to the district is economically sound and
232 desirable. The resolution shall designate the contemplated
233 territorial limits of the extended district and the municipalities
234 and sewer districts proposed to be served.

235 (b) A certified copy of the resolution as so adopted
236 shall be published in a newspaper published in the county and
237 having a general circulation within the proposed district once a
238 week for at least three (3) consecutive weeks prior to the date
239 specified in the resolution as the date upon which the board
240 intends to create the district. The first publication shall be
241 made not less than twenty-one (21) days prior to the date
242 specified, and the last publication shall be made not more than
243 seven (7) days prior to the date.

244 (c) If twenty percent (20%) of the qualified electors
245 of the proposed district file a written petition with the board of
246 supervisors on or before the date specified protesting the
247 extension of the district, the board of supervisors shall call an
248 election on the question of the extending of the district. The
249 election shall be held and conducted by the election commissioners
250 of the county as nearly as may be in accordance with the general
251 laws governing elections and the election commissioners shall
252 determine which of the qualified electors of the county reside
253 within the proposed district and only such qualified electors that
254 reside within the proposed district shall be entitled to vote in
255 the election. Notice of the election, setting the time, place or
256 places, and purpose of the election shall be published by the
257 clerk of the board of supervisors. The notice shall be published
258 for the time and in the manner provided for the publication of the
259 resolution of intention. The ballots to be prepared for and used
260 at the election shall be in substantially the following form:

261 For extension of _____ district ()
262 Against extension of _____ district ()

263 and voters shall vote by placing a cross mark (x) or a check mark
264 (a) opposite their choice.

265 (d) If no petition requiring an election be filed or if
266 a majority of those voting at an election vote in favor of the
267 creation of the district, the board of supervisors shall adopt a
268 resolution creating the district as described in the resolution of
269 intention.

270 (e) Any party having an interest in the subject matter
271 and aggrieved or prejudiced by the findings and adjudications of
272 the board of supervisors may appeal to the circuit court of the
273 county in the manner provided by law for appeals from orders of
274 the board of supervisors; provided, that the appeal shall be taken
275 within a period of fifteen (15) days from and after the date of
276 the adoption of the resolution extending any such district.

277 All costs incident to the publication of notice and all other
278 costs incident to the hearings, election and proceedings shall be
279 paid by the district.

280 Within ninety (90) days after the close of each fiscal year,
281 the commissioners shall publish in a newspaper of general
282 circulation in the county a sworn statement showing the financial
283 condition of the district, the earnings for the fiscal year just
284 ended, a statement of the sewer rates being charged and a brief
285 statement of the method used in arriving at the rates. The
286 statement shall also be filed with the board of supervisors
287 creating the district.

288 Section 12. For the purposes of Section 77-3-1, Mississippi
289 Code of 1972, this wastewater treatment facility shall be deemed
290 to be a municipal sewage district not subject to the jurisdiction
291 of the Mississippi Public Service Commission, except as provided
292 by Section 77-3-1, Mississippi Code of 1972, and in this act.

293 Section 13. Any revenue bonds issued under the provisions of
294 this act may be submitted to validation under the provisions of
295 Sections 31-13-1 through 31-13-11, Mississippi Code of 1972.

296 SECTION 2. This act shall take effect and be in force from
297 and after its passage.