

By: Smith (39th), Chism

To: Local and Private  
Legislation

HOUSE BILL NO. 1720  
(As Passed the House)

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.