

By: Representative Smith (39th)

To: Local and Private
Legislation; Ways and Means

HOUSE BILL NO. 1658

1 AN ACT TO AMEND CHAPTER 838, LOCAL AND PRIVATE LAWS OF 1991,
2 AS AMENDED BY CHAPTER 971, LOCAL AND PRIVATE LAWS OF 2000, TO
3 REVISE THE QUALIFICATIONS FOR APPOINTMENT TO THE BOARD OF
4 COMMISSIONERS OF THE SOUTHGATE SEWER DISTRICT IN LOWNDES COUNTY;
5 AND FOR RELATED PURPOSES.

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

7 SECTION 1. Chapter 838, Local and Private Laws of 1991, as
8 amended by Chapter 971, Local and Private Laws of 2000, is amended
9 as follows:

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

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

29 East boundary of Section 9 and Section 4, Township 17
30 South, Range 18 West, to the intersection with the South
31 boundary of the Columbus Air Force Base at or near the
32 Northeast Corner of said Section 4; thence run Westward
33 along the South boundary of the Columbus Air Force Base
34 to the Point of Beginning.

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

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

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

61 Section 4. From and after the effective date of this act,
62 the powers of the Southgate Sewer District shall be vested in and
63 exercised by a board of commissioners consisting of five (5)
64 members to be appointed by the Board of Supervisors of Lowndes
65 County, Mississippi. Upon their initial appointment, one (1) of
66 the commissioners shall be appointed for a term of four (4) years
67 and one (1) shall be for a term of three (3) years and one (1) for
68 a term of two (2) years and two (2) shall be appointed for the
69 term of one (1) year; thereafter, each commissioner shall be
70 appointed and shall hold office for a term of five (5) years. Any
71 vacancy occurring on the board of commissioners shall be filled by
72 the board of supervisors at a regular meeting of the board. The
73 board of supervisors shall have the authority to fill an unexpired
74 term of any commissioner or commissioners. Each commissioner
75 shall qualify for office by taking the oath required by Section
76 268 of the Constitution of Mississippi, and by the filing with the
77 chancery clerk of the county a surety bond payable to the State of
78 Mississippi in the penal sum of Ten Thousand Dollars (\$10,000.00),
79 to be approved by the chancery clerk and conditioned to provide
80 for the favorable performance of his duties as commissioner. The
81 bond premium shall be paid out of the revenues of the district.

82 The board of commissioners shall organize by electing one (1)
83 of its members as chairman and another as vice chairman and
84 another as secretary-treasurer. It shall be the duty of the
85 chairman to preside at all meetings of the board and to act as the
86 chief executive officer of the board of the district. The vice
87 chairman shall act in the absence or disability of the chairman.
88 The board also shall elect and fix the compensation of a
89 secretary-treasurer who may or may not be a member of the board.
90 It shall be the duty of the secretary-treasurer to keep a record
91 of all proceedings of the board and to safely keep all funds of
92 the district. The proceedings and records of the board shall be
93 available for inspection as other public records. The

94 secretary-treasurer shall be required to execute a bond, payable
95 to the district, in a sum and with such surety as shall be fixed
96 and approved by the board of commissioners. The terms of all
97 officers of the board shall be for one (1) year from and after the
98 date of election and shall run until their respective successors
99 are appointed and qualified. Each board of commissioners shall
100 adopt an official seal with which to attest the official acts and
101 records of the board and district.

102 Any qualified elector who is a resident of, or owns real
103 property in, or is a user of services provided by, the district
104 shall be eligible to hold the office of commissioner. The
105 commissioners shall receive reasonable compensation and other
106 related benefits for their services and shall be reimbursed for
107 any expenses necessarily incurred in the discharge of their
108 official duties. Compensation and other benefits shall not be
109 paid to the commissioners until sufficient funding is available to
110 meet all current financial obligations.

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

- 115 (a) To sue and be sued;
- 116 (b) To acquire by purchase, gift, devise or lease and
117 to hold and dispose of real and personal property of every kind;
- 118 (c) To make and enter into contracts, conveyances,
119 mortgages, deeds of trust, bonds or leases;
- 120 (d) To incur debts, to borrow money, to issue
121 negotiable bonds, and to provide for the rights of the holders
122 thereof;
- 123 (e) To fix, maintain, collect and revise rates and
124 charges for the services rendered by or through the facilities of
125 such district;

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

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

131 (h) To use any right-of-way, easement or other similar
132 property right, including right of eminent domain as provided by
133 Section 11-27-81 et seq., Mississippi Code of 1972, necessary or
134 convenient in connection with the acquisition, improvement,
135 operation or maintenance of the facilities of the district, held
136 by the state or any political subdivision thereof, provided that
137 the regulations set by law or established by the governing body
138 for the use of the property are followed;

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

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

154 Section 6. The commission shall have full power and
155 authority to issue all bonds of the district, but before issuing
156 any bonds, the commission shall adopt a resolution declaring its
157 intention so to do, stating the amount of the bonds proposed to be
158 issued, and the date upon which the commission proposes to direct

159 the issuance of the bonds. The resolution shall be published once
160 a week for at least three (3) consecutive weeks in at least one
161 (1) newspaper qualified under the provisions of Section 13-3-31,
162 Mississippi Code of 1972, in the county in which the district lies
163 and having a general circulation in the district which lies in the
164 county. The first publication of the resolution shall be made not
165 less than twenty-one (21) days prior to the date fixed in the
166 resolution for the issuance of the bonds, and the last publication
167 shall be made not more than seven (7) days prior to such date. If
168 ten percent (10%) of the users of the district shall file a
169 written protest against the issuance of such bonds on or before
170 the date specified in such resolution, then an election on the
171 question of the issuance of such bonds shall be called and held in
172 the manner to be provided by the commission by rules and
173 regulations promulgated prior to the adoption of the resolution
174 declaring the commission's intention to issue the bonds.

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

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

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

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

221 Section 10. The property and revenue of the district shall
222 be exempt from all state, county and municipal taxation. Bonds
223 issued pursuant to this act and the income therefrom shall be
224 exempt from all state, county and municipal taxation, except

225 inheritance, transfer and estate taxes, and it may be so stated on
226 the face of the bonds.

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

231 (a) The board of supervisors, after due investigation,
232 may adopt a resolution finding and determining (i) that the public
233 convenience and necessity require extension of the district and
234 (ii) that the extension to the district is economically sound and
235 desirable. The resolution shall designate the contemplated
236 territorial limits of the extended district and the municipalities
237 and sewer districts proposed to be served.

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

247 (c) If twenty percent (20%) of the qualified electors
248 of the proposed district file a written petition with the board of
249 supervisors on or before the date specified protesting the
250 extension of the district, the board of supervisors shall call an
251 election on the question of the extending of the district. The
252 election shall be held and conducted by the election commissioners
253 of the county as nearly as may be in accordance with the general
254 laws governing elections and the election commissioners shall
255 determine which of the qualified electors of the county reside
256 within the proposed district and only such qualified electors that
257 reside within the proposed district shall be entitled to vote in

258 the election. Notice of the election, setting the time, place or
259 places, and purpose of the election shall be published by the
260 clerk of the board of supervisors. The notice shall be published
261 for the time and in the manner provided for the publication of the
262 resolution of intention. The ballots to be prepared for and used
263 at the election shall be in substantially the following form:

264 For extension of _____ district ()

265 Against extension of _____ district ()

266 and voters shall vote by placing a cross mark (x) or a check mark
267 (✓) opposite their choice.

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

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

280 All costs incident to the publication of notice and all other
281 costs incident to the hearings, election and proceedings shall be
282 paid by the district.

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

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

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

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