

By: Representative Ladner

To: County Affairs; Public Utilities

HOUSE BILL NO. 1039

1 AN ACT TO ALLOW THE BOARD OF SUPERVISORS OF A COUNTY TO
2 CONSOLIDATE RURAL UTILITY DISTRICTS FOR ADMINISTRATIVE PURPOSES;
3 TO BRING FORWARD SECTIONS 19-5-167 AND 19-5-175, MISSISSIPPI CODE
4 OF 1972, FOR PURPOSES OF POSSIBLE AMENDMENT; AND FOR RELATED
5 PURPOSES.

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

7 **SECTION 1.** The board of supervisors of the incorporating
8 county may consolidate rural utility districts created by the
9 county for administrative purposes. The board of supervisors
10 shall conduct a public hearing to determine the public's interest
11 in any such consolidation. Following such a hearing, the board
12 may create a consolidated district to combine two (2) or more of
13 the rural utility districts for administrative purposes. Such
14 consolidating districts then shall dissolve their respective
15 boards of commissioners, transferring all records to the
16 consolidated board of commissioners. All debts, liabilities,
17 obligations, assumed agreements, contracts and covenants of the
18 consolidating districts shall become the debts of the consolidated
19 board of commissioners. A board of commissioners for the



20 consolidated district consisting of not less than five (5) members
21 shall be appointed with equal representation from each supervisor
22 district. In the event the consolidating districts are within the
23 jurisdiction of a utility district created under Section
24 49-17-701, et seq., the statutory appointments for those
25 consolidating districts to that utility authority shall thereafter
26 be made by the board of supervisors.

27 Any commissioners appointed to a consolidated utility
28 district commission must comply with eligibility requirements as
29 authorized in Section 19-5-171. General powers and duties of
30 commissioners and commissions and other related matters as defined
31 in Sections 19-5-151 through 19-5-207 shall apply to the entire
32 area contained in the consolidating utility districts as described
33 in the resolutions incorporating the utility districts.

34 **SECTION 2.** Section 19-5-167, Mississippi Code of 1972, is
35 brought forward as follows:

36 19-5-167. (1) Except as otherwise provided in this section,
37 the powers of each district shall be vested in and exercised by a
38 board of commissioners consisting of five (5) members to be
39 appointed by the board of supervisors. Upon their initial
40 appointment, one (1) of the commissioners shall be appointed for a
41 term of one (1) year; one (1) for a term of two (2) years; one (1)
42 for a term of three (3) years; one (1) for a term of four (4)
43 years; and one (1) for a term of five (5) years; thereafter, each
44 commissioner shall be appointed and shall hold office for a term



45 of five (5) years. Any vacancy occurring on a board of
46 commissioners shall be filled by the board of supervisors at any
47 regular meeting of the board of supervisors, and the board of
48 supervisors shall have the authority to fill all unexpired terms
49 of any commissioner or commissioners. Notwithstanding the
50 appointive authority herein granted to the board of supervisors,
51 its legal and actual responsibilities, authority and function,
52 subsequent to the creation of any district, shall be specifically
53 limited to the appointive function and responsibilities outlined
54 in Sections 19-5-179, 19-5-189 and 19-5-191, except that with fire
55 protection districts, the board of supervisors shall have
56 authority for dissolving, redefining and reconfiguring of such
57 districts as may be appropriate to ensure the most appropriate and
58 efficient fire protection coverage for the county's citizens. The
59 operation, management, abolition or dissolution of such district,
60 and all other matters in connection therewith, shall be vested
61 solely and only in the board of commissioners to the specific
62 exclusion of the board of supervisors, and the abolition,
63 dissolution or termination of any district shall be accomplished
64 only by unanimous resolution of the board of commissioners, except
65 that with fire protection districts, the board of supervisors
66 shall have authority for the dissolving, redefining and
67 reconfiguring of such districts when determined appropriate.
68 However, if any area within the boundaries of a fire protection
69 district created under Section 19-5-151 et seq., is annexed by a



70 municipality, a reduction of the boundaries of the district to
71 exclude such annexed area may be accomplished by the adoption of a
72 resolution by a majority vote of the board of commissioners of
73 that fire protection district. The county board of supervisors
74 which has a fire protection district created under Section
75 19-5-151 et seq., may dissolve, redefine and reconfigure such
76 district and, under Section 19-5-215 et seq., may create a fire
77 protection grading district consisting of the same boundaries as
78 the previously existing fire protection district or having amended
79 boundaries as determined appropriate by the board of supervisors.
80 Petition and election requirements of Sections 19-5-217 through
81 19-5-227 shall not apply where the board of supervisors dissolves
82 a fire protection district and creates a fire protection grading
83 district under this section. Except as otherwise provided herein,
84 such board of supervisors or commissioners shall have no power,
85 jurisdiction or authority to abolish, dissolve or terminate any
86 district while the district has any outstanding indebtedness of
87 any kind or character, unless arrangements are made for the
88 assumption of any outstanding indebtedness by the subsequent
89 district or by the county. If a fire protection district is
90 dissolved in accordance with this subsection, the board of
91 supervisors may continue to levy the same millage as was being
92 levied within the boundaries of the previous fire protection
93 district before its dissolution provided that a fire protection



94 grading district is created, in accordance with Section 19-5-215
95 et seq.

96 (2) The board of supervisors of the incorporating county may
97 consolidate such fire protection districts for administrative
98 purposes. The board of supervisors shall conduct a public hearing
99 to determine the public's interest. Following such a hearing, the
100 board may create a consolidated commission consisting of the
101 participating districts for administrative purposes. Such
102 districts then shall dissolve their respective boards of
103 commissioners, transferring all records to the consolidated board
104 of commissioners. A consolidated board of commissioners
105 consisting of not less than five (5) members shall be appointed
106 with equal representation from each participating district. Any
107 commissioners appointed to a consolidated fire protection district
108 commission must comply with eligibility requirements as authorized
109 in Section 19-5-171. In the event that a consolidated fire
110 protection district commission consists of an even number of
111 members, the chairman elected as authorized by Section 19-5-169
112 shall vote only in the event of a tie. General powers and duties
113 of commissioners and commissions and other related matters as
114 defined in Sections 19-5-151 through 19-5-207 shall apply to the
115 entire area contained in the consolidating fire protection
116 districts as described in the resolutions incorporating the fire
117 protection districts as well as to subsequent annexations.



118 (3) If the creation of the district is initiated in
119 accordance with Section 19-5-153(3), the powers of the district
120 shall be vested in and exercised by a board of commissioners
121 selected in the following manner:

122 (a) Upon creation of the district, the board of
123 directors of the former nonprofit, nonshare corporation shall
124 serve as the board of commissioners of the newly created water
125 district for a period not to exceed sixty (60) days. The initial
126 commissioners shall be subject to the requirements of Section
127 19-5-171, except the requirement for executing a bond. If an
128 initial commissioner fails to meet a requirement of Section
129 19-5-171 as provided in this section, the board of supervisors
130 shall appoint a member to fill that vacancy on the board of
131 commissioners.

132 (b) In the resolution creating a district initiated in
133 accordance with Section 19-5-153(3), the board of supervisors
134 shall direct the existing board of directors of the rural water
135 association to create within the district five (5) posts from
136 which commissioners shall be elected. The board of supervisors
137 shall designate the positions to be elected from each post as Post
138 1, Post 2, Post 3, Post 4 and Post 5. Post 5 shall be an at-large
139 post composed of the entire district. Within sixty (60) days
140 following creation of the district, the board of supervisors shall
141 call an election. Such election shall be held and conducted by
142 the election commissioners in accordance with the general laws



143 governing elections. The election commissioners shall determine
144 which of the qualified electors of the county reside within the
145 district and only those electors shall be entitled to vote in the
146 election. Notice of the election setting forth the time, place or
147 places and the purpose of the election shall be published by the
148 clerk of the board of supervisors in the manner provided in
149 Section 19-5-155.

150 The initial elected commissioners shall be elected to a term
151 of office expiring on December 31 of the year in which the next
152 succeeding general election for statewide officials is held.
153 After the initial term of office, commissioners shall be elected
154 to four-year terms. Vacancies shall be filled by the procedure
155 set forth in Section 23-15-839.

156 (4) For any water and sewer district located within the
157 corporate limits of a municipality that was incorporated on or
158 after January 2012, the powers of the district shall be vested in
159 and exercised by a board of commissioners consisting of five (5)
160 members, each to be appointed by the governing authority of such
161 municipality, one (1) member to be appointed from each municipal
162 ward in the city. Each commissioner shall be appointed and shall
163 hold office for a term of five (5) years. Any vacancy occurring
164 on the board of commissioners shall be filled by the governing
165 authority of the municipality at any regular meeting.
166 Appointments to fill vacancies in unexpired terms of office shall
167 be for the remaining unexpired term of office for such position.



168 **SECTION 3.** Section 19-5-175, Mississippi Code of 1972, is
169 brought forward as follows:

170 19-5-175. Districts created under the provisions of Sections
171 19-5-151 through 19-5-207 shall have the powers enumerated in the
172 resolution of the board of supervisors creating such districts but
173 shall be limited to the conducting and operating of a water supply
174 system, a sewer system, a garbage and waste collection and
175 disposal system, a fire protection system, a combined water and
176 fire protection system, a combined water and sewer system, a
177 combined water and garbage and waste collection and disposal
178 system, or a combined water, sewer, garbage and waste collection
179 and disposal and fire protection system; and to carry out such
180 purpose or purposes, such districts shall have the power and
181 authority to acquire, construct, reconstruct, improve, better,
182 extend, consolidate, maintain and operate such system or systems,
183 and to contract with any municipality, person, firm or corporation
184 for such services and for a supply and distribution of water, for
185 collection, transportation, treatment and/or disposal of sewage
186 and for services required incident to the operation and
187 maintenance of such systems. As long as any such district
188 continues to furnish any of the services which it was authorized
189 to furnish in and by the resolution by which it was created, it
190 shall be the sole public corporation empowered to furnish such
191 services within such district. However, if the board of
192 commissioners of such district and the board of supervisors



193 unanimously agree, the county may contract directly with any fire
194 protection services provider, in which case the board of
195 supervisors may distribute directly to the fire protection
196 services provider any or all of the funds that otherwise would be
197 distributed to the fire protection district.

198 Any district created pursuant to the provisions of Sections
199 19-5-151 through 19-5-207 shall be vested with all the powers
200 necessary and requisite for the accomplishment of the purpose for
201 which such district is created. No enumeration of powers herein
202 shall be construed to impair or limit any general grant of power
203 herein contained nor to limit any such grant to a power or powers
204 of the same class or classes as those enumerated. Such districts
205 are empowered to do all acts necessary, proper or convenient in
206 the exercise of the powers granted under such sections.

207 **SECTION 4.** Section 1 of this act shall be codified as a new
208 section in Chapter 5, Title 19, Mississippi Code of 1972.

209 **SECTION 5.** This act shall take effect and be in force from
210 and after July 1, 2018.

