

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.