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purpose, except where a petition requesting an election is filed as provided herein and without the necessity of giving notice thereof except as specifically provided herein. Any bonds that may be issued under the provisions of this act shall be sold as provided in Section 4357-01, Mississippi Code of 1942, Recompiled.

Section 8. The tax levied in this act shall not be construed as a part of the homestead exemption statutes.

Section 9. This act shall take effect and be in force from and after its passage.

Approved: January 5, 1967.

CHAPTER 45

SENATE BILL No. 1520

AN ACT to provide for the incorporation of water, sewer and fire protection districts in Leake County, Madison County, Smith County, Warren County and DeSoto County, Mississippi; to prescribe the powers and duties of such districts; and for related purposes.

Be it enacted by the Legislature of the State of Mississippi:

Section 1. Any unincorporated contiguous area situated within the County of Leake, or within the County of Madison, or within the County of Smith, or within the County of Warren, or within the County of DeSoto, in the State of Mississippi, and not being situated within the corporate water system, sewer system or fire protection facilities serving such area, may become incorporated as a water district, as a sewer district, as a fire protection district, as a combined water and sewer district, as a combined water and fire protection district, or as a combined water, sewer and fire protection district, in the following manner:

(a) A petition for the incorporation of such a district may be submitted to the board of supervisors of the county in which such district is to be located, signed by not less than fifteen (15) owners of real property residing within the boundaries of the proposed district. Such petition shall include (1) a statement of the necessity for the service or services to be supplied by the proposed district; (2) the proposed corporate name for the district; (3) the proposed boundaries of the district; and (4) an estimate of the cost of the acquisition or construction of the facilities to be operated by the district, which estimate, however, shall not serve as a limitation upon the financing of improvements or extensions to the facilities. Such petition shall be signed in person by the petitioners, with their respective residence addresses, and shall be accompanied by a sworn statement of the person or persons circulating the petition, who shall state under oath that he or they witnessed the signature of each

petitioner, that each signature is the signature of the person it purports to be, and that to the best of his or their knowledge, each petitioner was, at the time of signing, an owner of real property within and a resident of the proposed district.

(b) Upon the filing of such a petition, it shall then be the duty of the board of supervisors of said county to fix a time and place for a public hearing upon the question of the public convenience and necessity of the incorporation of the proposed district. The date fixed for such hearing shall be not more than thirty (30) days after the filing of the petition, and the date of the hearing, the place at which it shall be held, and the purpose of the hearing shall be set forth in a notice to be signed by the clerk of the board of supervisors of said county and it shall be published in a newspaper having general circulation within such proposed district once a week for at least three (3) consecutive weeks prior to the date of such hearing. The first such publication shall be made not less than twenty-one (21) days prior to the date of such hearing and the last such publication shall be made not more than seven (7) days prior to the date of such hearing. If, at such public hearing, the board of supervisors finds (1) that the public convenience and necessity require the creation of the district, and (2) that the creation of the district is economically sound and desirable, the board of supervisors shall adopt a resolution making the aforesaid findings and declaring its intention to create the district on the specified date. Such resolution shall designate the contemplated territorial limits of said district, which limits may or may not be the same as the boundaries set forth in the petition.

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

(c) If twenty per cent (20%) of the qualified electors of such proposed district file a written petition with such board of supervisors on or before the date specified, aforesaid protesting the creation of such district, the board of supervisors shall call an election on the question of the creation of such district. Such election shall be held and conducted by the election commissioners of the county as nearly as may be in accordance with the general laws governing elections, and such election commissioners shall determine which of the qualified electors of such county reside within the proposed district and only such qualified electors as reside within such proposed district shall

be entitled to vote in such election. Notice of such election, setting forth the time, place or places, and purpose of such election shall be published by the clerk of the board of supervisors, and such notice shall be published for the time and in the manner herein provided for the publication of the aforesaid resolution of intention. The ballots to be prepared for and used at said election shall be in substantially the following form:

For creation of.....district ()

Against creation of.....district ()

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

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

(e) All costs incident to the publication of the aforesaid notices and all other costs incident to the public hearing and election hereunder shall be borne by the parties filing the petition for incorporation of the district, and the board of supervisors, in its discretion, may require the parties filing such petition to furnish a cost bond in an amount and with good sureties to guarantee the payment of such costs.

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

Section 2. (a) From and after the date of the adoption of the resolution creating such district, such district shall be a valid body politic and corporate of the State of Mississippi under its corporate name. The powers of each such district shall be vested in and exercised by a board of commissioners consisting of three (3) members, to be appointed by the board of supervisors. Upon their initial appointment, one (1) of the commissioners shall be appointed for a term of two (2) years; one (1) for a term of three (3) years; and one (1) for a term of four (4) years; and thereafter, each commissioner shall be appointed and shall hold office for a term of four (4) years. Any vacancy occurring on such board of commissioners shall be filled by the board of supervisors at any regular meeting of such board of supervisors, which board of supervisors shall

have the authority to fill all unexpired terms of any commissioner or commissioners. Each commissioner shall qualify for office by taking the oath prescribed by Section 268 of the Constitution of Mississippi, and by filing with the Chancery Clerk of the county a surety bond payable to the State of Mississippi in the penal sum of Ten Thousand Dollars (\$10,000.00) to be approved by the Chancery Clerk, conditioned to provide for the faithful performance of his duties as commissioner. The bond premium shall be paid out of the revenues of the district.

(b) Such board of commissioners shall organize by electing one (1) of its members as chairman and another as vice-chairman. It shall be the duty of the chairman to preside at all meetings of the board and to act as the chief executive officer of the board of the district. The vice-chairman shall act in the absence or disability of the chairman. Such board also shall elect and fix the compensation of a secretary-treasurer who may or may not be a member of the board. It shall be the duty of the secretary-treasurer to keep a record of all proceedings of the board and to safely keep all funds of the district. The proceedings and records of the board shall be available for inspection as other public records. The secretary-treasurer shall be required to execute a bond, payable to the district, in a sum and with such surety as shall be fixed and approved by the board of commissioners. The terms of all officers of the board shall be for one (1) year from and after date of election and shall run until their respective successors are appointed and qualified. Each such board of commissioners shall adopt an official seal with which to attest the official acts and records of the board and district.

(c) Every resident citizen of any district created pursuant to this act, of good reputation, being the owner of land situated within such district and over twenty-five (25) years of age, and of sound mind and judgment shall be eligible to hold the office of commissioner.

(d) The commissioners so appointed and qualified shall be compensated for their services for each meeting of the board of commissioners attended, either regular or special, at a rate to be fixed by the board of supervisors, and shall be reimbursed for all expenses necessarily incurred in the discharge of their official duties.

Section 3. Districts created under the provisions of this act shall have the powers enumerated in the resolution of the board of supervisors creating such districts but shall be limited to the conducting and operating of a water supply system, a sewer system, a fire protection system, a combined water and fire protection system, or a combined water, sewer and fire protection system, and to carry out such purpose or purposes,

such districts shall have the power and authority to acquire, construct, reconstruct, improve, better, extend, consolidate, maintain, and operate such system or systems and to contract with any municipality, person, firm, or corporation for a supply of water or for services required incident to the operation and maintenance of such a system. Nothing in this act shall be construed as giving the authority to own, operate or maintain any natural gas or electric transmission or distribution system.

Section 4. Any district created pursuant to the provisions of this act, acting by and through the board of commissioners of such district, its governing authority, shall have the following powers:

- (a) To sue and be sued.
- (b) To acquire by purchase, gift, devise or lease and to hold and dispose of real and personal property of every kind.
- (c) To make and enter into contracts, conveyances, mortgages, deeds of trust, bonds or leases.
- (d) To incur debts, to borrow money, to issue negotiable bonds, and to provide for the rights of the holders thereof.
- (e) To fix, maintain, collect and revise rates and charges for the services rendered by or through the facilities of such district, which rates and charges shall not be subject to review or regulation by the Mississippi Public Service Commission, except in those instances where a city operating similar services would be subject to regulation and review.
- (f) To pledge all or any part of its revenues to the payment of its obligations.
- (g) To make such covenants in connection with the issuance of bonds or to secure the payment of bonds that a private business corporation can make under the general laws of the State.
- (h) To use any right-of-way, easement, or other similar property right necessary or convenient in connection with the acquisition, improvement, operation, or maintenance of the facilities of such district, held by the State or any political subdivision thereof; provided that the governing body of such political subdivision shall consent to such use.

Section 5. (a) Any such district shall have the power to provide funds for the purpose of constructing, acquiring, reconstructing, improving, bettering, or extending the facilities of such district by the issuance of revenue bonds only. Such bonds shall be payable solely and only from the revenues of such facilities and may be issued without an election being held upon the question of their issuance unless the board of com-

missioners of the district is presented with a petition for an election upon the question of their issuance signed by at least twenty per cent (20%) of the qualified electors residing within the district. If an election is required, it shall be held in substantial accord with the election outlined in subsection (c) of Section 1 of this act.

(b) The board of commissioners of any district created pursuant to this act may issue bonds of such district by resolution spread upon the minutes of such board. Such bonds shall contain such covenants and provisions; shall be executed; shall be in such form, format, type, denomination or denominations; shall be payable as to principal and interest, at such place or places; and shall mature at such time or times not exceeding forty (40) years from their date, all as shall be determined by such board of commissioners and set forth in the resolution pursuant to which such bonds shall be issued.

(c) Provided, however, all bonds shall bear interest at such rate or rates not to exceed a net interest cost to maturity of six per cent (6%) per annum; no bond shall bear more than one (1) rate of interest; each bond shall bear interest from its date to its stated maturity date at the interest rate specified in the bid; all bonds of the same maturity shall bear the same rate of interest. All interest accruing on such bonds so issued shall be payable semiannually, or annually, except that the first interest coupon attached to any such bond may be for any period not exceeding one (1) year. No interest payment shall be evidenced by more than one (1) coupon and supplemental coupons will not be permitted; no interest coupon shall vary more than twenty-five per cent (25%) in interest rate, from any other interest coupon in the same bond issue; and the interest rate on any one interest coupon shall not exceed six per cent (6%).

(d) Such bonds shall be signed by the president and secretary of the commission with the seal of the commission affixed thereto, but the coupons may bear only the facsimile signatures of such president and secretary.

(e) Any provisions of the general laws to the contrary notwithstanding, any bonds and interest coupons issued pursuant to the authority of this act shall possess all of the qualities of negotiable instruments, and such bonds and interest coupons shall be exempt from all State, county, municipal, and other taxation under the laws of the State of Mississippi.

Section 6. (a) All bonds provided for herein shall be sold under the sealed bid procedure as designated in Section 4357-01, Mississippi Code of 1942, Recompiled, and as additionally provided in this and other sections of this act. Each interest rate specified in any bid must be in a multiple of one-twentieth

of one per cent (1/20 of 1%) and a zero rate of interest cannot be named. Any premium must be paid in bank funds as a part of the purchase price and bids shall not contemplate the cancellation of any interest coupon or the waiver of interest or other concession by the bidder as a substitute for bank funds. Any bonds issued under the provisions of this act may be refunded in like manner as revenue bonds of municipalities may be refunded. All bonds issued under the provisions of this act shall be submitted to validation under the provisions of Sections 4313 through 4318, inclusive, Mississippi Code of 1942, Recompiled.

(b) This act, without reference to any other statute, shall be deemed to be full and complete authority for the creation of such districts and for the issuance of such bonds, and no proceedings shall be required for the creation of such districts or for the issuance of such bonds other than those provided for and required herein, and all the necessary powers to be exercised by the board of supervisors of such county and by the board of commissioners of any such district, in order to carry out the provisions of this act, are hereby conferred; provided, however, that all bonds issued under this act shall be sold as required by Section 4357-01, Mississippi Code of 1942, Recompiled.

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

If any default is made in the payment of the principal of or interest on such bonds, any court having jurisdiction of the action may appoint a receiver to administer said district and said system or systems, with power to charge and collect rates sufficient to provide for the payment of all bonds and obligations outstanding against said system or systems and for the payment of operating expenses and to apply the income and

revenues thereof in conformity with the provisions of this act and any covenants with bondholders.

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

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

Section 10. The property and revenue of such district shall be exempt from all State, county and municipal taxation. Bonds issued pursuant to this act and the income therefrom shall be exempt from all State, county and municipal taxation, except inheritance, transfer and estate taxes, and it may be so stated on the face of said bonds.

Section 11. Any area adjacent to any district created pursuant to this act and situated within the same county as the district, and not being situated within the corporate boundaries of any existing municipality, may be annexed to and become a part of such district by the same procedure prescribed in Section 1 of this act for the original creation of the district. All costs incident to the publication of notice and all other costs incident to the hearings, election and proceedings shall be paid by the district.

Section 12. None of the territory lying within any such district shall be subject to annexation by any municipality, or incorporated within a municipality unless all of the territory of the district shall be so annexed or incorporated at one time, in which event the assets of the district shall be transferred to the municipality and the municipality shall assume the operation and maintenance of the facilities of the district, and shall assume all liabilities and obligations of the district. Such transfer shall not affect any lien or security of the holders of any bonds

issued by the district. After the transfer to such municipality, the district shall be dissolved by order of the board of supervisors.

Section 13. Within ninety (90) days after the close of each fiscal year, the commissioners shall publish in a newspaper of general circulation in the county a sworn statement showing the financial condition of the district, the earnings for the fiscal year just ended, a statement of the water and sewer rates being charged and a brief statement of the method used in arriving at such rates. Such statement shall also be filed with the board of supervisors creating the district.

Section 14. If any provision of this act shall be held to be invalid by any court of competent jurisdiction, the remainder of this act shall not be affected thereby.

Section 15. This act shall take effect and be in force from and after its passage.

Approved: January 5, 1967.

CHAPTER 46

HOUSE BILL No. 39

AN ACT to authorize the Mississippi Public Service Commission to approve and authorize the sale, assignment, lease or transfer of certificates of public convenience and necessity issued under the provisions of the Mississippi Public Utility Act, Chapter 372, Mississippi Laws of 1956.

Be it enacted by the Legislature of the State of Mississippi:

Section 1. It shall be lawful, under the conditions specified below, for public utilities to sell, assign, lease or transfer certificates of public convenience and necessity issued to them under the provisions of Chapter 372, Mississippi Laws of 1956.

Whenever a purchase, lease, assignment or transfer is proposed under this act, the utility or utilities or the person seeking authority therefor shall present an application to the Mississippi Public Service Commission in such form as may be prescribed by the Commission, and thereupon the Commission shall notify the applicant or applicants and other parties known to have a substantial interest in the proceedings of the time and place for a public hearing at least twenty (20) days prior thereto, unless the Commission shall find that public convenience or necessity requires that such hearings be held at an earlier date. Notice of all such hearings shall be given the persons interested therein by mailing such notice to each public utility which may be affected by any order resulting therefrom and by publication in a newspaper of general circulation published in Jackson, Mississippi. If, after such hearing, the Commission finds that the transaction proposed is in good faith, that the