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Chapter No. 303

15/HR40/R1292PH

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# ***HOUSE BILL NO. 896***

Originated in House



Clerk

HOUSE BILL NO. 896

AN ACT TO AMEND SECTION 19-5-167, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT THE MEMBERS OF THE BOARD OF COMMISSIONERS OF THE WATER AND SEWER DISTRICT OF A CERTAIN MUNICIPALITY SHALL BE APPOINTED BY THE GOVERNING AUTHORITY OF A CERTAIN MUNICIPALITY; TO AMEND SECTION 49-17-737, MISSISSIPPI CODE OF 1972, TO REMOVE THE PRESIDENT OF THE DIAMONDHEAD WATER AND SEWER DISTRICT FROM MEMBERSHIP ON THE BOARD OF THE HANCOCK COUNTY UTILITY AUTHORITY; TO PROVIDE THAT A PERSON DESIGNATED TO BE A DIRECTOR ON THE BOARD SHALL HAVE SAME VOTING POWERS AS MAYOR; AND FOR RELATED PURPOSES.

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

**SECTION 1.** Section 19-5-167, Mississippi Code of 1972, is amended as follows:

19-5-167. (1) Except as otherwise provided in this section, the powers of each district shall be vested in and exercised by a board of commissioners consisting of five (5) 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 one (1) year; one (1) for a term of two (2) years; one (1) for a term of three (3) years; one (1) for a term of four (4) years; and one (1) for a term of five (5) years; thereafter, each commissioner shall be appointed and shall hold office for a term

of five (5) years. Any vacancy occurring on a board of commissioners shall be filled by the board of supervisors at any regular meeting of the board of supervisors, and the board of supervisors shall have the authority to fill all unexpired terms of any commissioner or commissioners. Notwithstanding the appointive authority herein granted to the board of supervisors, its legal and actual responsibilities, authority and function, subsequent to the creation of any district, shall be specifically limited to the appointive function and responsibilities outlined in Sections 19-5-179, 19-5-189 and 19-5-191. The operation, management, abolition or dissolution of such district, and all other matters in connection therewith, shall be vested solely and only in the board of commissioners to the specific exclusion of the board of supervisors, and the abolition, dissolution or termination of any district shall be accomplished only by unanimous resolution of the board of commissioners. However, if any area within the boundaries of a fire protection district created under Section 19-5-151 et seq., is annexed by a municipality, a reduction of the boundaries of the district to exclude such annexed area may be accomplished by the adoption of a resolution by a majority vote of the board of commissioners of that fire protection district. The board of commissioners of a fire protection district created under Section 19-5-151 et seq., by unanimous resolution, may dissolve such district and, under Section 19-5-215 et seq., may create a fire protection grading

district consisting of the same boundaries as the previously existing fire protection district. Petition and election requirements of Sections 19-5-217 through 19-5-227 shall not apply where the board of commissioners dissolves a fire protection district and creates a fire protection grading district under this section. Except as otherwise provided herein, such board of commissioners shall have no power, jurisdiction or authority to abolish, dissolve or terminate any district while the district has any outstanding indebtedness of any kind or character, unless such dissolution or termination is accomplished under the provisions of Section 19-5-207. If a fire protection district is dissolved in accordance with this subsection, the board of supervisors may continue to levy the same millage as was being levied within the boundaries of the fire protection district before its dissolution provided that a fire protection grading district is created, in accordance with Section 19-5-215 et seq., with identical boundaries as the previously existing fire protection district.

(2) The board of supervisors of the incorporating county, upon receipt of a unanimous resolution from two (2) or more boards of commissioners of duly created fire protection districts, may consolidate such districts for administrative purposes. Upon receipt of unanimous resolutions requesting consolidation, the board of supervisors shall conduct a public hearing to determine the public's interest. Following such a hearing, the board may create a consolidated commission consisting of the participating

districts for administrative purposes. Such districts then shall dissolve their respective boards of commissioners, transferring all records to the consolidated board of commissioners. A consolidated board of commissioners consisting of not less than five (5) members shall be appointed with equal representation from each participating district. Any commissioners appointed to a consolidated fire protection district commission must comply with eligibility requirements as authorized in Section 19-5-171. In the event that a consolidated fire protection district commission consists of an even number of members, the chairman elected as authorized by Section 19-5-169 shall vote only in the event of a tie. General powers and duties of commissioners and commissions and other related matters as defined in Sections 19-5-151 through 19-5-207 shall apply to the entire area contained in the consolidating fire protection districts as described in the resolutions incorporating the fire protection districts as well as to subsequent annexations.

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

(a) Upon creation of the district, the board of directors of the former nonprofit, nonshare corporation shall serve as the board of commissioners of the newly created water district for a period not to exceed sixty (60) days. The initial

commissioners shall be subject to the requirements of Section 19-5-171, except the requirement for executing a bond. If an initial commissioner fails to meet a requirement of Section 19-5-171 as provided in this section, the board of supervisors shall appoint a member to fill that vacancy on the board of commissioners.

(b) In the resolution creating a district initiated in accordance with Section 19-5-153(3), the board of supervisors shall direct the existing board of directors of the rural water association to create within the district five (5) posts from which commissioners shall be elected. The board of supervisors shall designate the positions to be elected from each post as Post 1, Post 2, Post 3, Post 4 and Post 5. Post 5 shall be an at-large post composed of the entire district. Within sixty (60) days following creation of the district, the board of supervisors shall call an election. Such election shall be held and conducted by the election commissioners in accordance with the general laws governing elections. The election commissioners shall determine which of the qualified electors of the county reside within the district and only those electors shall be entitled to vote in the election. Notice of the election setting forth the time, place or places and the purpose of the election shall be published by the clerk of the board of supervisors in the manner provided in Section 19-5-155.

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

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

**SECTION 2.** Section 49-17-737, Mississippi Code of 1972, is amended as follows:

49-17-737. (1) After consolidation, all powers of the Hancock County Utility Authority shall be exercised by a board consisting of the following:

(a) One (1) director who is the Mayor of Bay St. Louis, or his or her designee, for an initial term of two (2) years;

(b) One (1) director who is the Mayor of Waveland, or his or her designee, for an initial term of three (3) years;

(c) One (1) director who is the President of the Board of Supervisors of Hancock County, or his or her designee, for an initial term of four (4) years;

\* \* \*

( \* \* \*d) One (1) director who is the Chairman of the Kiln Utility and Fire District;

( \* \* \*e) One (1) director who is the Chairman of the Hancock County Water and Sewer District; and

( \* \* \*f) One (1) director who is the Chairman of the Pearlinton Water and Sewer District.

After expiration of the initial terms, the directors in paragraphs (a), (b) and (c) shall serve a term of four (4) years.

(2) In addition to any other powers and rights conferred upon such board of directors, the board is granted and may exercise all powers and rights granted pursuant to Sections 49-17-739 through 49-17-773 to promote the health, welfare and prosperity of the general public.

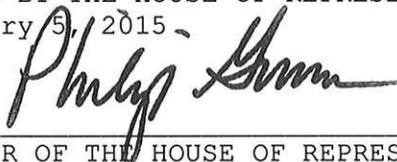
(3) Any designee serving as a director shall serve at the will and pleasure of the governing authority that designated the director.

(4) Any person who is designated by a mayor to be a director on the board of the Hancock County Utility Authority shall have

the same voting powers on the board as the mayor who designated such person.

**SECTION 3.** This act shall take effect and be in force from and after July 1, 2015.

PASSED BY THE HOUSE OF REPRESENTATIVES  
February 5, 2015



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SPEAKER OF THE HOUSE OF REPRESENTATIVES

PASSED BY THE SENATE  
March 4, 2015



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PRESIDENT OF THE SENATE

APPROVED BY THE GOVERNOR



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GOVERNOR

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