

By: Representative Ellzey

To: County Affairs;
Municipalities

HOUSE BILL NO. 117

1 AN ACT TO AMEND SECTIONS 19-5-22 AND 21-19-2, MISSISSIPPI
2 CODE OF 1972, TO PROVIDE THAT FEES ASSESSED BY COUNTIES OR
3 MUNICIPALITIES FOR GARBAGE OR RUBBISH COLLECTION OR DISPOSAL
4 SERVICES SHALL NOT BECOME A LIEN UPON THE REAL PROPERTY OFFERED
5 THE SERVICES, AND THAT THE TAX COLLECTOR SHALL NOT REFUSE TO ISSUE
6 OR RENEW A MOTOR VEHICLE ROAD AND BRIDGE PRIVILEGE LICENSE TO A
7 PERSON WHO IS DELINQUENT IN THE PAYMENT OF SUCH FEES, IF THE
8 GOVERNING AUTHORITIES OF THE COUNTY OR MUNICIPALITY HAVE ENTERED
9 INTO A CONTRACT FOR THE COLLECTION OF GARBAGE OR RUBBISH OR FOR
10 THE COLLECTION OF FEES FOR SUCH SERVICES BY A PRIVATE INDIVIDUAL,
11 CORPORATION OR ASSOCIATION; AND FOR RELATED PURPOSES.

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

13 SECTION 1. Section 19-5-22, Mississippi Code of 1972, is
14 amended as follows:

15 19-5-22. (1) Fees for garbage or rubbish collection or
16 disposal shall be assessed jointly and severally against the
17 generator of the garbage or rubbish and against the owner of the
18 property furnished the service. Any person who pays, as a part of
19 a rental or lease agreement, an amount for garbage or rubbish
20 collection or disposal services shall not be held liable upon the
21 failure of the property owner to pay those fees.

22 (2) Every generator assessed the fees authorized by Section
23 19-5-21 and the owner of the property occupied by that generator
24 shall be jointly and severally liable for the fees. The fees
25 shall be a lien upon the real property offered garbage or rubbish
26 collection or disposal service.

27 The board of supervisors may assess the fees annually. If
28 the fees are assessed annually, the fees for each calendar year
29 shall be a lien upon the real property beginning on January 1 of
30 the next immediately succeeding calendar year. The person or

31 entity owing the fees, upon signing a form provided by the board
32 of supervisors, may pay the fees in equal installments.

33 If fees are assessed on a basis other than annually, the fees
34 shall become a lien on the real property offered the service on
35 the date that the fees become due and payable.

36 No real or personal property shall be sold to satisfy any
37 lien imposed under this subsection (2).

38 The county shall mail a notice of the lien, including the
39 amount of unpaid fees and a description of the property subject to
40 the lien, to the owner of the property.

41 (3) Liens created under subsection (2) may be discharged by
42 filing with the circuit clerk a receipt or acknowledgement, signed
43 by the designated county official or billing and collection
44 entity, that the lien has been paid or discharged.

45 (4) (a) The board of supervisors may notify the tax
46 collector of any unpaid fees assessed under Section 19-5-21 within
47 ninety (90) days after the fees are due. Before notifying the tax
48 collector, the board of supervisors shall provide notice of the
49 delinquency to the person who owes the delinquent fees and shall
50 afford an opportunity for a hearing, that complies with the due
51 process protections the board deems necessary, consistent with the
52 Constitutions of the United States and the State of Mississippi.
53 The board of supervisors shall establish procedures for the manner
54 in which notice shall be given and the contents of the notice;
55 however, each notice shall include the amount of fees and shall
56 prescribe the procedure required for payment of the delinquent
57 fees. The board of supervisors may designate a disinterested
58 individual to serve as hearing officer.

59 (b) Upon receipt of a delinquency notice, the tax
60 collector shall not issue or renew a motor vehicle road and bridge
61 privilege license for any motor vehicle owned by a person who is
62 delinquent in the payment of fees unless those fees in addition to
63 any other taxes or fees assessed against the motor vehicle are
64 paid. Payment of all delinquent garbage fees shall be deemed a
65 condition of receiving a motor vehicle road and privilege license
66 tag.

67 (c) The tax collector may forward the motor vehicle

68 road and privilege license tag renewal notices to the designated
69 county official or entity that is responsible for the billing and
70 collection of the county garbage fees. The designated county
71 official or the billing and collection entity shall identify those
72 license tags that shall not be issued due to delinquent garbage
73 fees. The designated county official or the billing and
74 collection entity shall stamp a message on the license tag renewal
75 notices that the tag will not be renewed until delinquent garbage
76 fees are paid. The designated county official or the billing and
77 collection entity shall return the license tag notices to the tax
78 collector before the first of the month.

79 (d) Any appeal from a decision of the board of
80 supervisors under this section regarding payment of delinquent
81 garbage fees may be taken as provided in Section 11-51-75.

82 (5) Notwithstanding any other provisions of this section,
83 the fees assessed for garbage or rubbish collection or disposal
84 services shall not become a lien upon the real property offered
85 the services, and the tax collector shall not refuse to issue or
86 renew a motor vehicle road and bridge privilege license to a
87 person who is delinquent in the payment of such fees, if the board
88 of supervisors has entered into a contract for the collection of
89 garbage or rubbish or for the collection of fees for such services
90 by a private individual, corporation or association.

91 SECTION 2. Section 21-19-2, Mississippi Code of 1972, is
92 amended as follows:

93 21-19-2. (1) (a) To defray the cost of establishing,
94 operating and maintaining the system provided for in Section
95 21-19-1, the governing authority of a municipality may develop a
96 system for the billing and/or collection of any fees or charges
97 imposed on each person furnished garbage and/or rubbish collection
98 and/or disposal service by the municipality or at the expense of
99 the municipality. The governing authority of the municipality
100 shall provide for the collection of the fees or charges.

101 (b) The governing authority of a municipality may enter
102 into a contract upon mutual agreement with a public or private
103 corporation, nonprofit corporation, planning and development
104 district or a public agency, association, utility or utility
105 district within the area receiving garbage and/or rubbish
106 collection and/or disposal services from the municipality for the
107 purpose of developing, maintaining, operating and administering a
108 system for the billing and/or collection of fees or charges
109 imposed by the municipality for garbage and/or rubbish collection
110 and/or disposal services. The entity with whom the governing
111 authority of a municipality contracts shall notify the governing
112 authority of the municipality monthly of any unpaid fees or
113 charges assessed under this section. Any entity that contracts to
114 provide a service to customers, within the area being served by
115 the municipality's garbage and/or rubbish collection and/or
116 disposal system, may provide a list of its customers to the
117 governing authority of the municipality upon the request of the
118 governing authority.

119 (2) (a) To defray the cost of establishing and operating
120 the system provided for in Section 21-19-1, the governing body of
121 a municipality may levy an ad valorem tax not to exceed four (4)
122 mills on all taxable property within the area served by the
123 municipality's garbage and/or rubbish collection and/or disposal
124 system. The service area may be comprised of incorporated and/or
125 unincorporated areas within a county; however, no property shall
126 be subject to this levy unless that property is within an area
127 served by a municipality's garbage and/or rubbish collection
128 and/or disposal system. The rate of the ad valorem tax levied
129 under this section shall be shown as a line item on the notice of
130 ad valorem taxes on taxable property owed by the taxpayer.

131 (b) In addition to or in lieu of any other method
132 authorized to defray the cost of establishing and operating the
133 system provided for in Section 21-19-1, the governing body of a

134 municipality that has established a garbage and/or rubbish
135 collection and/or disposal system may assess and collect fees or
136 charges to defray the costs of such services. The governing
137 authority may assess and collect the fees or charges from each
138 single family residential generator of garbage and/or rubbish.

139 The governing authority also may assess and collect such fees or
140 charges from each industrial, commercial and multi-family
141 residential generator of garbage and/or rubbish for any time
142 period that the generator has not otherwise contracted for the
143 collection of garbage and/or rubbish that is ultimately disposed
144 of at a permitted or authorized nonhazardous solid waste
145 management facility.

146 (c) Before the adoption of any resolution or ordinance
147 to increase the ad valorem tax assessment or fees or charges
148 authorized by this section, the governing authority of a
149 municipality shall have published a notice advertising their
150 intent to increase the ad valorem tax assessment or fees or
151 charges authorized by this section. The notice shall specify the
152 purpose of the proposed increase, the proposed percentage increase
153 and the proposed percentage increase in total revenues for garbage
154 and/or rubbish collection and/or disposal services or shall
155 contain a copy of any resolution by the governing authority
156 stating their intent to increase the ad valorem tax assessment or
157 fees or charges authorized by this section. The notice shall be
158 published in a newspaper having general circulation in the
159 municipality for no less than three (3) consecutive weeks before
160 the adoption of the order. The notice shall be in print no less
161 than the size of eighteen (18) point and shall be surrounded by a
162 one-fourth (1/4) inch black border. The notice shall not be
163 placed in the legal section notice of the newspaper. There shall
164 be no language in the notice inferring a mandate from the
165 Legislature.

166 In addition to the requirement for publication of notice, the

167 governing authority of a municipality shall notify each person
168 furnished garbage and/or rubbish collection and/or disposal
169 service of any increase in the ad valorem tax assessment or fees
170 or charges authorized by this section. In the case of an increase
171 of the ad valorem tax assessment, a notice shall be conspicuously
172 placed on or attached to the first ad valorem tax bill on which
173 the increased assessment is effective. In the case of an increase
174 in fees or charges, a notice shall be conspicuously placed on or
175 attached to the first bill for fees or charges on which the
176 increased fees or charges are assessed. There shall be no
177 language in any notice inferring a mandate from the Legislature.

178 (d) The governing authority of a municipality may adopt
179 an ordinance authorizing the granting of exemptions from the fees
180 or charges for certain generators of garbage and/or rubbish. The
181 ordinance shall define clearly those generators that may be
182 exempted and shall be interpreted consistently by the governing
183 authority when determining whether to grant or withhold requested
184 exemptions.

185 (e) The governing authority may borrow money for the
186 purpose of defraying the expenses of the system in anticipation
187 of:

188 (i) The tax levy authorized under this section;

189 (ii) Revenues resulting from the assessment of any
190 fees or charges for garbage and/or rubbish collection and/or
191 disposal; or

192 (iii) Any combination thereof.

193 (3) (a) Fees or charges for garbage and/or rubbish
194 collection and/or disposal shall be assessed jointly and severally
195 against the generator of the garbage and/or rubbish and against
196 the owner of the property furnished the service. However, any
197 person who pays, as a part of a rental or lease agreement, an
198 amount for garbage and/or rubbish collection and/or disposal
199 services shall not be held liable upon the failure of the property

200 owner to pay such fees.

201 (b) Every generator assessed the fees or charges
202 provided for and limited by this section and the owner of the
203 property occupied by that generator shall be jointly and severally
204 liable for the fees and/or charges so assessed. The fees or
205 charges shall be a lien upon the real property offered garbage
206 and/or rubbish collection and/or disposal service.

207 At the discretion of the governing body of the municipality,
208 fees or charges assessed for the service may be assessed annually.

209 If fees or charges are assessed annually, the fees or charges for
210 each calendar year shall be a lien upon the real property offered
211 the service beginning on January 1 of the next immediately
212 succeeding calendar year. The person or entity owing the fees or
213 charges, upon signing a form provided by the governing authority,
214 may pay the fees or charges in equal installments.

215 If fees or charges so assessed are assessed on a basis other
216 than annually, the fees or charges shall become a lien on the real
217 property offered the service on the date that the fees or charges
218 become due and payable.

219 No real or personal property shall be sold to satisfy any
220 lien imposed under this section.

221 The municipality shall mail a notice of the lien, including
222 the amount of unpaid fees or charges and a description of the
223 property subject to the lien, to the owner of the property subject
224 to the lien.

225 (c) The municipal governing body shall notify the
226 county tax collector of any unpaid fees or charges assessed under
227 this section within ninety (90) days after such fees or charges
228 are due. Upon receipt of a delinquency notice, the tax collector
229 shall not issue or renew a motor vehicle road and bridge privilege
230 license for any motor vehicle owned by a person who is delinquent
231 in the payment of fees or charges, unless such fees or charges, in
232 addition to any other taxes or fees assessed against the motor

233 vehicle, are paid.

234 (d) Liens created under this section may be discharged
235 as follows:

236 (i) By filing with the municipal tax collector a
237 receipt or acknowledgement, signed by the municipality, that the
238 lien has been paid or discharged; or

239 (ii) By depositing with the municipal tax
240 collector money equal to the amount of the claim, which money
241 shall be held for the benefit of the municipality.

242 (4) Notwithstanding any other provisions of this section,
243 the fees assessed for garbage or rubbish collection or disposal
244 services shall not become a lien upon the real property offered
245 the services, and the tax collector shall not refuse to issue or
246 renew a motor vehicle road and bridge privilege license to a
247 person who is delinquent in the payment of such fees, if the
248 governing authorities of the municipality have entered into a
249 contract for the collection of garbage or rubbish or for the
250 collection of fees for such services by a private individual,
251 corporation or association.

252 SECTION 3. This act shall take effect and be in force from
253 and after July 1, 1999.