

By: Representative Holland

To: County Affairs;
Municipalities

HOUSE BILL NO. 351

1 AN ACT TO AMEND SECTIONS 19-5-22 AND 21-19-2, MISSISSIPPI
2 CODE OF 1972, TO PROVIDE THAT A PERSON WHO RENTS OR LEASES
3 PROPERTY SHALL NOT BE LIABLE FOR THE PAYMENT OF GARBAGE OR RUBBISH
4 COLLECTION OR DISPOSAL FEES IF THE OWNER OF THE PROPERTY FAILS TO
5 PAY SUCH FEES; AND FOR RELATED PURPOSES.

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

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

9 19-5-22. (1) Fees for garbage or rubbish collection or
10 disposal shall be assessed jointly and severally against the
11 generator of the garbage or rubbish and against the owner of the
12 property furnished the service. However, any person who rents or
13 leases the property furnished the service shall not be held liable
14 upon the failure of the property owner to pay those fees.

15 (2) Except as provided in subsection (1) of this section,
16 every generator assessed the fees authorized by Section 19-5-21
17 and the owner of the property occupied by that generator shall be
18 jointly and severally liable for the fees. The fees shall be a
19 lien upon the real property offered garbage or rubbish collection
20 or disposal service.

21 The board of supervisors may assess the fees annually. If
22 the fees are assessed annually, the fees for each calendar year
23 shall be a lien upon the real property beginning on January 1 of
24 the next immediately succeeding calendar year. The person or
25 entity owing the fees, upon signing a form provided by the board
26 of supervisors, may pay the fees in equal installments.

27 If fees are assessed on a basis other than annually, the fees

28 shall become a lien on the real property offered the service on
29 the date that the fees become due and payable.

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

32 The county shall mail a notice of the lien, including the
33 amount of unpaid fees and a description of the property subject to
34 the lien, to the owner of the property.

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

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

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

61 (c) The tax collector may forward the motor vehicle
62 road and privilege license tag renewal notices to the designated
63 county official or entity that is responsible for the billing and
64 collection of the county garbage fees. The designated county
65 official or the billing and collection entity shall identify those
66 license tags that shall not be issued due to delinquent garbage
67 fees. The designated county official or the billing and
68 collection entity shall stamp a message on the license tag renewal
69 notices that the tag will not be renewed until delinquent garbage
70 fees are paid. The designated county official or the billing and
71 collection entity shall return the license tag notices to the tax
72 collector before the first of the month.

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

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

78 21-19-2. (1) (a) To defray the cost of establishing,
79 operating and maintaining the system provided for in Section
80 21-19-1, the governing authority of a municipality may develop a
81 system for the billing and/or collection of any fees or charges
82 imposed on each person furnished garbage and/or rubbish collection
83 and/or disposal service by the municipality or at the expense of
84 the municipality. The governing authority of the municipality
85 shall provide for the collection of the fees or charges.

86 (b) The governing authority of a municipality may enter
87 into a contract upon mutual agreement with a public or private
88 corporation, nonprofit corporation, planning and development
89 district or a public agency, association, utility or utility
90 district within the area receiving garbage and/or rubbish
91 collection and/or disposal services from the municipality for the
92 purpose of developing, maintaining, operating and administering a
93 system for the billing and/or collection of fees or charges

94 imposed by the municipality for garbage and/or rubbish collection
95 and/or disposal services. The entity with whom the governing
96 authority of a municipality contracts shall notify the governing
97 authority of the municipality monthly of any unpaid fees or
98 charges assessed under this section. Any entity that contracts to
99 provide a service to customers, within the area being served by
100 the municipality's garbage and/or rubbish collection and/or
101 disposal system, may provide a list of its customers to the
102 governing authority of the municipality upon the request of the
103 governing authority.

104 (2) (a) To defray the cost of establishing and operating
105 the system provided for in Section 21-19-1, the governing body of
106 a municipality may levy an ad valorem tax not to exceed four (4)
107 mills on all taxable property within the area served by the
108 municipality's garbage and/or rubbish collection and/or disposal
109 system. The service area may be comprised of incorporated and/or
110 unincorporated areas within a county; however, no property shall
111 be subject to this levy unless that property is within an area
112 served by a municipality's garbage and/or rubbish collection
113 and/or disposal system. The rate of the ad valorem tax levied
114 under this section shall be shown as a line item on the notice of
115 ad valorem taxes on taxable property owed by the taxpayer.

116 (b) In addition to or in lieu of any other method
117 authorized to defray the cost of establishing and operating the
118 system provided for in Section 21-19-1, the governing body of a
119 municipality that has established a garbage and/or rubbish
120 collection and/or disposal system may assess and collect fees or
121 charges to defray the costs of such services. The governing
122 authority may assess and collect the fees or charges from each
123 single family residential generator of garbage and/or rubbish.

124 The governing authority also may assess and collect such fees or
125 charges from each industrial, commercial and multi-family
126 residential generator of garbage and/or rubbish for any time

127 period that the generator has not otherwise contracted for the
128 collection of garbage and/or rubbish that is ultimately disposed
129 of at a permitted or authorized nonhazardous solid waste
130 management facility.

131 (c) Before the adoption of any resolution or ordinance
132 to increase the ad valorem tax assessment or fees or charges
133 authorized by this section, the governing authority of a
134 municipality shall have published a notice advertising their
135 intent to increase the ad valorem tax assessment or fees or
136 charges authorized by this section. The notice shall specify the
137 purpose of the proposed increase, the proposed percentage increase
138 and the proposed percentage increase in total revenues for garbage
139 and/or rubbish collection and/or disposal services or shall
140 contain a copy of any resolution by the governing authority
141 stating their intent to increase the ad valorem tax assessment or
142 fees or charges authorized by this section. The notice shall be
143 published in a newspaper having general circulation in the
144 municipality for no less than three (3) consecutive weeks before
145 the adoption of the order. The notice shall be in print no less
146 than the size of eighteen (18) point and shall be surrounded by a
147 one-fourth (1/4) inch black border. The notice shall not be
148 placed in the legal section notice of the newspaper. There shall
149 be no language in the notice inferring a mandate from the
150 Legislature.

151 In addition to the requirement for publication of notice, the
152 governing authority of a municipality shall notify each person
153 furnished garbage and/or rubbish collection and/or disposal
154 service of any increase in the ad valorem tax assessment or fees
155 or charges authorized by this section. In the case of an increase
156 of the ad valorem tax assessment, a notice shall be conspicuously
157 placed on or attached to the first ad valorem tax bill on which
158 the increased assessment is effective. In the case of an increase
159 in fees or charges, a notice shall be conspicuously placed on or

160 attached to the first bill for fees or charges on which the
161 increased fees or charges are assessed. There shall be no
162 language in any notice inferring a mandate from the Legislature.

163 (d) The governing authority of a municipality may adopt
164 an ordinance authorizing the granting of exemptions from the fees
165 or charges for certain generators of garbage and/or rubbish. The
166 ordinance shall define clearly those generators that may be
167 exempted and shall be interpreted consistently by the governing
168 authority when determining whether to grant or withhold requested
169 exemptions.

170 (e) The governing authority may borrow money for the
171 purpose of defraying the expenses of the system in anticipation
172 of:

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

174 (ii) Revenues resulting from the assessment of any
175 fees or charges for garbage and/or rubbish collection and/or
176 disposal; or

177 (iii) Any combination thereof.

178 (3) (a) Fees or charges for garbage and/or rubbish
179 collection and/or disposal shall be assessed jointly and severally
180 against the generator of the garbage and/or rubbish and against
181 the owner of the property furnished the service. However, any
182 person who rents or leases the property furnished the service
183 shall not be held liable upon the failure of the property owner to
184 pay such fees.

185 (b) Except as provided in subsection (3)(a) of this
186 section, every generator assessed the fees or charges provided for
187 and limited by this section and the owner of the property occupied
188 by that generator shall be jointly and severally liable for the
189 fees and/or charges so assessed. The fees or charges shall be a
190 lien upon the real property offered garbage and/or rubbish
191 collection and/or disposal service.

192 At the discretion of the governing body of the municipality,

193 fees or charges assessed for the service may be assessed annually.

194 If fees or charges are assessed annually, the fees or charges for
195 each calendar year shall be a lien upon the real property offered
196 the service beginning on January 1 of the next immediately
197 succeeding calendar year. The person or entity owing the fees or
198 charges, upon signing a form provided by the governing authority,
199 may pay the fees or charges in equal installments.

200 If fees or charges so assessed are assessed on a basis other
201 than annually, the fees or charges shall become a lien on the real
202 property offered the service on the date that the fees or charges
203 become due and payable.

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

206 The municipality shall mail a notice of the lien, including
207 the amount of unpaid fees or charges and a description of the
208 property subject to the lien, to the owner of the property subject
209 to the lien.

210 (c) The municipal governing body shall notify the
211 county tax collector of any unpaid fees or charges assessed under
212 this section within ninety (90) days after such fees or charges
213 are due. Upon receipt of a delinquency notice, the tax collector
214 shall not issue or renew a motor vehicle road and bridge privilege
215 license for any motor vehicle owned by a person who is delinquent
216 in the payment of fees or charges, unless such fees or charges, in
217 addition to any other taxes or fees assessed against the motor
218 vehicle, are paid.

219 (d) Liens created under this section may be discharged
220 as follows:

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

224 (ii) By depositing with the municipal tax
225 collector money equal to the amount of the claim, which money

226 shall be held for the benefit of the municipality.

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