

By: Representative West

To: Conservation and
Water Resources; Ways
and Means

HOUSE BILL NO. 1325

1 AN ACT TO AMEND SECTIONS 19-5-21 AND 21-19-2, MISSISSIPPI
2 CODE OF 1972, TO PROVIDE THAT CERTAIN DISABLED PERSONS AND PERSONS
3 SIXTY-FIVE YEARS OF AGE OR OLDER SHALL BE EXEMPT FROM PAYMENT OF
4 50% OF THE FEES CHARGED BY COUNTIES AND CITIES FOR GARBAGE OR
5 RUBBISH COLLECTION OR DISPOSAL SERVICES; TO PROVIDE THAT THE
6 AMOUNT BY WHICH THE TOTAL GARBAGE OR RUBBISH COLLECTION OR
7 DISPOSAL SERVICES FEES COLLECTED BY THE COUNTY OR CITY IS REDUCED
8 AS A RESULT OF THE EXEMPTION SHALL BE ADDED PROPORTIONATELY TO THE
9 FEES CHARGED TO REAL PROPERTY OWNERS WHO DO NOT QUALIFY FOR THE
10 EXEMPTION; AND FOR RELATED PURPOSES.

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

12 SECTION 1. Section 19-5-21, Mississippi Code of 1972, is
13 amended as follows:

14 19-5-21. (1) (a) Except as provided in paragraphs (b),
15 (c), (d) and (g) of this subsection, the board of supervisors, to
16 defray the cost of establishing and operating the system provided
17 for in Section 19-5-17, may levy an ad valorem tax not to exceed
18 four (4) mills on all taxable property within the area served by
19 the county garbage or rubbish collection or disposal system. The
20 service area may be comprised of unincorporated or incorporated
21 areas of the county or both; however, no property shall be subject
22 to this levy unless that property is within an area served by a
23 county's garbage or rubbish collection or disposal system.

24 (b) The board of supervisors of any Class 1 county
25 having two (2) judicial districts, being traversed by United
26 States Highway 11, which intersects United States Highway 84, may
27 levy, in its discretion, for the purposes of establishing,
28 operating and maintaining a garbage or rubbish collection or
29 disposal system, an ad valorem tax not to exceed seven (7) mills
30 on all taxable property within the area served by the system as

31 set out in paragraph (a) of this subsection.

32 (c) The board of supervisors of any county wherein
33 Mississippi Highways 35 and 16 intersect and having a land area of
34 five hundred eighty-six (586) square miles may levy, in its
35 discretion, for the purposes of establishing, operating and
36 maintaining a garbage or rubbish collection or disposal system, an
37 ad valorem tax not to exceed six (6) mills on all taxable property
38 within the area served by the system as set out in paragraph (a)
39 of this subsection.

40 (d) The board of supervisors of any county bordering on
41 the Mississippi River and traversed by United States Highway 61,
42 and which is intersected by Mississippi Highway 4, having a
43 population of eleven thousand eight hundred fifty-four (11,854)
44 according to the 1970 federal census, and having an assessed
45 valuation of Fourteen Million Eight Hundred Seventy-two Thousand
46 One Hundred Forty-four Dollars (\$14,872,144.00) in 1970, may levy,
47 in its discretion, for the purposes of establishing, operating and
48 maintaining a garbage or rubbish collection or disposal system, an
49 ad valorem tax not to exceed six (6) mills on all taxable property
50 within the area served by the system as set out in paragraph (a)
51 of this subsection.

52 (e) The proceeds derived from any additional millage
53 levied pursuant to paragraphs (a) through (d) of this subsection
54 in excess of two (2) mills shall be excluded from the ten percent
55 (10%) increase limitation under Section 27-39-321 for the first
56 year of such additional levy and shall be included within such
57 limitation in any year thereafter. The proceeds from any millage
58 levied pursuant to paragraph (g) shall be excluded from the ten
59 percent (10%) increase limitation under Section 27-39-321 for the
60 first year of the levy and shall be included within the limitation
61 in any year thereafter.

62 (f) The rate of the ad valorem tax levied under this
63 section shall be shown as a line item on the notice of ad valorem
64 taxes on taxable property owed by the taxpayer.

65 (g) In lieu of the ad valorem tax authorized in
66 paragraphs (a), (b), (c) and (d) of this subsection, the fees
67 authorized in subsection (2) of this subsection and in Section

68 19-5-17 or any combination thereof, the board of supervisors may
69 levy an ad valorem tax not to exceed six (6) mills to defray the
70 cost of establishing and operating the system provided for in
71 Section 19-5-17 on all taxable property within the area served by
72 the system as provided in paragraph (a) of this subsection.

73 Any board of supervisors levying the ad valorem tax
74 authorized in this paragraph (g) is prohibited from assessing or
75 collecting fees for the services provided under the system.

76 (2) In addition to the ad valorem taxes authorized in
77 paragraphs (a), (b), (c) and (d) of subsection (1) or in lieu of
78 any other method authorized to defray the cost of establishing and
79 operating the system provided for in Section 19-5-17, the board of
80 supervisors of any county with a garbage or rubbish collection or
81 disposal system may assess and collect fees to defray the costs of
82 the services. The board of supervisors may assess and collect the
83 fees from each single family residential generator of garbage or
84 rubbish. The board of supervisors also may assess and collect the
85 fees from each industrial, commercial and multi-family residential
86 generator of garbage or rubbish for any time period that the
87 generator has not contracted for the collection of garbage and
88 rubbish that is ultimately disposed of at a permitted or
89 authorized nonhazardous solid waste management facility. The fees
90 assessed and collected under this subsection may not exceed, when
91 added to the proceeds derived from any ad valorem tax imposed
92 under this section and any special funds authorized under
93 subsection (7), the actual costs estimated to be incurred by the
94 county in operating the county garbage and rubbish collection and
95 disposal system.

96 (3) (a) Before the adoption of any order to increase the ad
97 valorem tax assessment or fees authorized by this section, the
98 board of supervisors shall publish a notice advertising their
99 intent to adopt an order to increase the ad valorem tax assessment
100 or fees authorized by this section. The notice shall specify the

101 purpose of the proposed increase, the proposed percentage increase
102 and the proposed percentage increase in total revenues for garbage
103 or rubbish collection or disposal services or shall contain a copy
104 of the resolution by the board stating their intent to increase
105 the ad valorem tax assessment or fees. The notice shall be
106 published in a newspaper published or having general circulation
107 in the county for no less than three (3) consecutive weeks before
108 the adoption of the order. The notice shall be in print no less
109 than the size of eighteen (18) point and shall be surrounded by a
110 one-fourth (1/4) inch black border. The notice shall not be
111 placed in the legal section notice of the newspaper. There shall
112 be no language in the notice stating or implying a mandate from
113 the Legislature.

114 (b) In addition to the requirement for publication of
115 notice, the board of supervisors shall notify each person
116 furnished garbage or rubbish collection or disposal service of any
117 increase in the ad valorem tax assessment or fees. In the case of
118 an increase of the ad valorem tax assessment, a notice shall be
119 conspicuously placed on or attached to the first ad valorem tax
120 bill on which the increased assessment is effective. In the case
121 of an increase in fees, a notice shall be conspicuously placed on
122 or attached to the first bill for fees on which the increased fees
123 or charges are assessed. There shall be no language in any notice
124 stating or implying a mandate from the Legislature.

125 (4) (a) Any resident citizen of a county who is blind,
126 paraplegic or a multiple amputee, or who has been adjudged by the
127 Veterans Administration as having a total service-connected
128 disability, or who has been adjudged to be totally disabled by the
129 Social Security Administration, or who is sixty-five (65) years of
130 age or older and who lives alone or only with a person or persons
131 who are eighteen (18) years of age or under, shall be exempt from
132 payment of fifty percent (50%) of the fees charged for garbage or
133 rubbish collection or disposal services to other individuals who

134 are not disabled. Any person who claims the exemption must
135 provide the board of supervisors with such proof and documentation
136 as the board deems sufficient to determine that the person meets
137 the requirements for the exemption. The amount by which the total
138 garbage or rubbish collection or disposal services fees collected
139 by the county is reduced as a result of the exemption shall be
140 added to the fees charged to real property owners who do not
141 qualify for the exemption, and the amount of fees to be paid by
142 each of such property owners shall be increased proportionately to
143 offset the total loss as a result of the exemption.

144 **(b)** The board of supervisors of each county shall adopt
145 an order determining whether or not to grant additional
146 exemptions, either full or partial, from the fees for certain
147 other classes of generators of garbage or rubbish. If a board of
148 supervisors grants any additional exemption, it shall do so in
149 accordance with policies and procedures, duly adopted and entered
150 on its minutes, that clearly define those classes of generators to
151 whom the exemptions are applicable. The order granting additional
152 exemptions shall be interpreted consistently by the board when
153 determining whether to grant or withhold requested exemptions.

154 **(5)** The board of supervisors in any county with a garbage or
155 rubbish collection or disposal system only for residents in
156 unincorporated areas may adopt an order authorizing any single
157 family generator to elect not to use the county garbage or rubbish
158 collection or disposal system. If the board of supervisors adopts
159 an order, the head of any single family residential generator may
160 elect not to use the county garbage or rubbish collection or
161 disposal service by filing with the chancery clerk the form
162 provided for in this subsection before December 1 of each year.
163 The board of supervisors shall develop a form that shall be
164 available in the office of the chancery clerk for the head of
165 household to elect not to use the service and to accept full
166 responsibility for the disposal of his garbage or rubbish in

167 accordance with state and federal laws and regulations. The board
168 of supervisors, following consultation with the Department of
169 Environmental Quality, shall develop and the chancery clerk shall
170 provide a form to each person electing not to use the service
171 describing penalties under state and federal law and regulations
172 for improper or unauthorized management of garbage. Notice that
173 the election may be made not to use the county service by filing
174 the form with the chancery clerk's office shall be published in a
175 newspaper published or having general circulation in the county
176 for no less than three (3) consecutive weeks, with the first
177 publication being made no sooner than five (5) weeks before the
178 first day of December. The notice shall state that any single
179 family residential generator may elect not to use the county
180 garbage or rubbish collection or disposal service by the
181 completion and filing of the form for that purpose with the
182 chancery clerk's office before December 1 of that year. The
183 notice shall also include a statement that any single family
184 residential generator who does not timely file the form shall be
185 assessed any fees levied to cover the cost of the county garbage
186 or rubbish collection or disposal service. The chancery clerk
187 shall maintain a list showing the name and address of each person
188 who has filed a notice of intent not to use the county garbage or
189 rubbish collection or disposal service.

190 (6) The board may borrow money for the purposes of defraying
191 the expenses of the system in anticipation of:

192 (a) The tax levy authorized under this section;

193 (b) Revenues resulting from the assessment of any fees
194 for garbage or rubbish collection or disposal; or

195 (c) Any combination thereof.

196 (7) In addition to the fees or ad valorem millage authorized
197 under this section, a board of supervisors may use monies from any
198 special funds of the county that are not otherwise required by law
199 to be dedicated for use for a particular purpose in order to

200 defray the costs of the county garbage or rubbish collection or
201 disposal system.

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

204 21-19-2. (1) (a) To defray the cost of establishing,
205 operating and maintaining the system provided for in Section
206 21-19-1, the governing authority of a municipality may develop a
207 system for the billing and/or collection of any fees or charges
208 imposed on each person furnished garbage and/or rubbish collection
209 and/or disposal service by the municipality or at the expense of
210 the municipality. The governing authority of the municipality
211 shall provide for the collection of the fees or charges.

212 (b) The governing authority of a municipality may enter
213 into a contract upon mutual agreement with a public or private
214 corporation, nonprofit corporation, planning and development
215 district or a public agency, association, utility or utility
216 district within the area receiving garbage and/or rubbish
217 collection and/or disposal services from the municipality for the
218 purpose of developing, maintaining, operating and administering a
219 system for the billing and/or collection of fees or charges
220 imposed by the municipality for garbage and/or rubbish collection
221 and/or disposal services. The entity with whom the governing
222 authority of a municipality contracts shall notify the governing
223 authority of the municipality monthly of any unpaid fees or
224 charges assessed under this section. Any entity that contracts to
225 provide a service to customers, within the area being served by
226 the municipality's garbage and/or rubbish collection and/or
227 disposal system, may provide a list of its customers to the
228 governing authority of the municipality upon the request of the
229 governing authority.

230 (2) (a) To defray the cost of establishing and operating
231 the system provided for in Section 21-19-1, the governing body of
232 a municipality may levy an ad valorem tax not to exceed four (4)

233 mills on all taxable property within the area served by the
234 municipality's garbage and/or rubbish collection and/or disposal
235 system. The service area may be comprised of incorporated and/or
236 unincorporated areas within a county; however, no property shall
237 be subject to this levy unless that property is within an area
238 served by a municipality's garbage and/or rubbish collection
239 and/or disposal system. The rate of the ad valorem tax levied
240 under this section shall be shown as a line item on the notice of
241 ad valorem taxes on taxable property owed by the taxpayer.

242 (b) In addition to or in lieu of any other method
243 authorized to defray the cost of establishing and operating the
244 system provided for in Section 21-19-1, the governing body of a
245 municipality that has established a garbage and/or rubbish
246 collection and/or disposal system may assess and collect fees or
247 charges to defray the costs of such services. The governing
248 authority may assess and collect the fees or charges from each
249 single family residential generator of garbage and/or rubbish.

250 The governing authority also may assess and collect such fees or
251 charges from each industrial, commercial and multi-family
252 residential generator of garbage and/or rubbish for any time
253 period that the generator has not otherwise contracted for the
254 collection of garbage and/or rubbish that is ultimately disposed
255 of at a permitted or authorized nonhazardous solid waste
256 management facility.

257 (c) Before the adoption of any resolution or ordinance
258 to increase the ad valorem tax assessment or fees or charges
259 authorized by this section, the governing authority of a
260 municipality shall have published a notice advertising their
261 intent to increase the ad valorem tax assessment or fees or
262 charges authorized by this section. The notice shall specify the
263 purpose of the proposed increase, the proposed percentage increase
264 and the proposed percentage increase in total revenues for garbage
265 and/or rubbish collection and/or disposal services or shall

266 contain a copy of any resolution by the governing authority
267 stating their intent to increase the ad valorem tax assessment or
268 fees or charges authorized by this section. The notice shall be
269 published in a newspaper having general circulation in the
270 municipality for no less than three (3) consecutive weeks before
271 the adoption of the order. The notice shall be in print no less
272 than the size of eighteen (18) point and shall be surrounded by a
273 one-fourth (1/4) inch black border. The notice shall not be
274 placed in the legal section notice of the newspaper. There shall
275 be no language in the notice inferring a mandate from the
276 Legislature.

277 In addition to the requirement for publication of notice, the
278 governing authority of a municipality shall notify each person
279 furnished garbage and/or rubbish collection and/or disposal
280 service of any increase in the ad valorem tax assessment or fees
281 or charges authorized by this section. In the case of an increase
282 of the ad valorem tax assessment, a notice shall be conspicuously
283 placed on or attached to the first ad valorem tax bill on which
284 the increased assessment is effective. In the case of an increase
285 in fees or charges, a notice shall be conspicuously placed on or
286 attached to the first bill for fees or charges on which the
287 increased fees or charges are assessed. There shall be no
288 language in any notice inferring a mandate from the Legislature.

289 (d) (i) Any resident citizen of a municipality who is
290 blind, paraplegic or a multiple amputee, or who has been adjudged
291 by the Veterans Administration as having a total service-connected
292 disability, or who has been adjudged to be totally disabled by the
293 Social Security Administration, or who is sixty-five (65) years of
294 age or older and who lives alone or only with a person or persons
295 who are eighteen (18) years of age or under, shall be exempt from
296 payment of fifty percent (50%) of the fees charged for garbage or
297 rubbish collection or disposal services to other individuals who
298 are not disabled. Any person who claims the exemption must

299 provide the governing authorities of the municipality with such
300 proof and documentation as the governing authorities deem
301 sufficient to determine that the person meets the requirements for
302 the exemption. The amount by which the total garbage or rubbish
303 collection or disposal services fees collected by the municipality
304 is reduced as a result of the exemption shall be added to the fees
305 charged to real property owners who do not qualify for the
306 exemption, and the amount of fees to be paid by each of such
307 property owners shall be increased proportionately to offset the
308 total loss as a result of the exemption.

309 (ii) The governing authority of a municipality may
310 adopt an ordinance authorizing the granting of additional
311 exemptions from the fees or charges for certain other generators
312 of garbage and/or rubbish. The ordinance shall define clearly
313 those generators that additionally may be exempted and shall be
314 interpreted consistently by the governing authority when
315 determining whether to grant or withhold requested exemptions.

316 (e) The governing authority may borrow money for the
317 purpose of defraying the expenses of the system in anticipation
318 of:

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

320 (ii) Revenues resulting from the assessment of any
321 fees or charges for garbage and/or rubbish collection and/or
322 disposal; or

323 (iii) Any combination thereof.

324 (3) (a) Fees or charges for garbage and/or rubbish
325 collection and/or disposal shall be assessed jointly and severally
326 against the generator of the garbage and/or rubbish and against
327 the owner of the property furnished the service. However, any
328 person who pays, as a part of a rental or lease agreement, an
329 amount for garbage and/or rubbish collection and/or disposal
330 services shall not be held liable upon the failure of the property
331 owner to pay such fees.

332 (b) Every generator assessed the fees or charges
333 provided for and limited by this section and the owner of the
334 property occupied by that generator shall be jointly and severally
335 liable for the fees and/or charges so assessed. The fees or
336 charges shall be a lien upon the real property offered garbage
337 and/or rubbish collection and/or disposal service.

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

340 If fees or charges are assessed annually, the fees or charges for
341 each calendar year shall be a lien upon the real property offered
342 the service beginning on January 1 of the next immediately
343 succeeding calendar year. The person or entity owing the fees or
344 charges, upon signing a form provided by the governing authority,
345 may pay the fees or charges in equal installments.

346 If fees or charges so assessed are assessed on a basis other
347 than annually, the fees or charges shall become a lien on the real
348 property offered the service on the date that the fees or charges
349 become due and payable.

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

352 The municipality shall mail a notice of the lien, including
353 the amount of unpaid fees or charges and a description of the
354 property subject to the lien, to the owner of the property subject
355 to the lien.

356 (c) The municipal governing body shall notify the
357 county tax collector of any unpaid fees or charges assessed under
358 this section within ninety (90) days after such fees or charges
359 are due. Upon receipt of a delinquency notice, the tax collector
360 shall not issue or renew a motor vehicle road and bridge privilege
361 license for any motor vehicle owned by a person who is delinquent
362 in the payment of fees or charges, unless such fees or charges, in
363 addition to any other taxes or fees assessed against the motor
364 vehicle, are paid.

365 (d) Liens created under this section may be discharged
366 as follows:

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

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

373 SECTION 3. This act shall take effect and be in force from
374 and after October 1, 1999.