

By: Senator(s) Cuevas

To: Environment Prot,
Cons and Water ResSENATE BILL NO. 2982
(As Passed the Senate)

1 AN ACT TO AMEND SECTION 19-5-177, MISSISSIPPI CODE OF 1972,
2 TO AUTHORIZE DISTRICTS CREATED UNDER SECTIONS 19-5-151 THROUGH
3 19-5-207 FOR THE PURPOSE OF PROVIDING SEWAGE SERVICE TO PROVIDE
4 FOR THE INSTALLATION OF RESIDENTIAL SEWAGE HOLDING TANKS, TO
5 REQUIRE THE DISTRICT TO MAINTAIN THOSE TANKS AND TO AUTHORIZE THE
6 DISTRICT TO CHARGE A FEE FOR ITS SERVICES; TO AMEND SECTION
7 41-67-11, MISSISSIPPI CODE OF 1972, TO AUTHORIZE THE BOARD OF
8 HEALTH TO APPROVE THE INSTALLATION OF SEWAGE HOLDING TANKS BY A
9 DISTRICT PENDING THE COMPLETION OF MUNICIPAL OR COMMUNITY SEWAGE
10 SYSTEMS; TO AMEND SECTION 41-67-6, MISSISSIPPI CODE OF 1972, TO
11 REQUIRE PERSONNEL OF THE DEPARTMENT OF HEALTH TO USE BEST
12 PROFESSIONAL JUDGMENT IN MAKING RECOMMENDATIONS ON THE TYPE OR
13 TYPES OF INDIVIDUAL ON-SITE WASTEWATER DISPOSAL SYSTEMS
14 RECOMMENDED, CONSIDERING FUNCTIONING SYSTEMS ON NEARBY LOTS OR
15 TRACTS; AND FOR RELATED PURPOSES. BE IT ENACTED BY THE
16 LEGISLATURE OF THE STATE OF MISSISSIPPI:

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18 SECTION 1. Section 19-5-177, Mississippi Code of 1972, is
19 amended as follows:

20 19-5-177. (1) Any district created under Sections 19-5-151
21 through 19-5-207, acting by and through the board of commissioners
22 of such district as its governing authority, shall have the
23 following among other powers:

24 (a) To sue and be sued;

25 (b) To acquire by purchase, gift, devise and lease or
26 any other mode of acquisition, other than by eminent domain, hold
27 and dispose of real and personal property of every kind within or
28 without the district;

29 (c) To make and enter into contracts, conveyances,
30 mortgages, deeds of trust, bonds, leases or contracts for
31 financial advisory services;

32 (d) To incur debts, to borrow money, to issue
33 negotiable bonds, and to provide for the rights of the holders

34 thereof;

35 (e) To fix, maintain, collect and revise rates and
36 charges for services rendered by or through the facilities of such
37 district, which rates and charges shall not be subject to review
38 or regulation by the Mississippi Public Service Commission except
39 in those instances where a city operating similar services would
40 be subject to regulation and review; however, said district shall
41 obtain a certificate of convenience and necessity from the
42 Mississippi Public Service Commission for operating of water
43 and/or sewer systems;

44 (f) To pledge all or any part of its revenues to the
45 payment of its obligations;

46 (g) To make such covenants in connection with the
47 issuance of bonds or to secure the payment of bonds that a private
48 business corporation can make under the general laws of the state;

49 (h) To use any right-of-way, public right-of-way,
50 easement, or other similar property or property rights necessary
51 or convenient in connection with the acquisition, improvement,
52 operation or maintenance of the facilities of such district held
53 by the state or any political subdivision thereof; however, the
54 governing body of such political subdivision shall consent to such
55 use;

56 (i) To enter into agreements with state and federal
57 agencies for loans, grants, grants-in-aid, and other forms of
58 assistance including, but not limited to, participation in the
59 sale and purchase of bonds;

60 (j) To acquire by purchase any existing works and
61 facilities providing services for which it was created, and any
62 lands, rights, easements, franchises and other property, real and
63 personal necessary to the completion and operation of such system
64 upon such terms and conditions as may be agreed upon, and if
65 necessary as part of the purchase price to assume the payment of
66 outstanding notes, bonds or other obligations upon such system;

67 (k) To extend its services to areas beyond but within
68 one (1) mile of the boundaries of such district; however, no such
69 extension shall be made to areas already occupied by another
70 corporate agency rendering the same service so long as such
71 corporate agency desires to continue to serve such areas. Areas
72 outside of the district desiring to be served which are beyond the
73 one-mile limit must be brought into the district by annexation
74 proceedings;

75 (l) To be deemed to have the same status as counties
76 and municipalities with respect to payment of sales taxes on
77 purchases made by such districts;

78 (m) To borrow funds for interim financing subject to
79 receipt of funds as outlined in Section 19-5-181.

80 (2) Any district which is incorporated under Sections
81 19-5-151 through 19-5-207 to provide sewer services may install or
82 provide for the installation of sewage holding tanks at
83 residential properties within the district, if funding for
84 municipal or community sewers has been awarded to the district.
85 The district shall maintain or provide for the maintenance of the
86 sewage holding tank systems. The district may assess and collect
87 from each resident using a sewage holding tank a fee covering the
88 costs of providing the services authorized under this section.
89 When municipal or community sewers are available and ready for
90 use, residences with sewage holding tanks shall be connected to
91 the sewer system.

92 SECTION 2. Section 41-67-11, Mississippi Code of 1972, is
93 amended as follows:

94 41-67-11. (1) Temporary individual on-site wastewater
95 disposal systems may be approved in otherwise unapprovable areas
96 only after a contract has been awarded for the construction of
97 municipal or community sewers that upon completion will adequately
98 serve the property. Temporary individual on-site wastewater
99 disposal systems shall only be approved under the following

100 conditions:

101 (a) When the municipal or community sewers shall not be
102 completed and available for use within six (6) months, a complete
103 individual on-site wastewater disposal system complying with all
104 requirements of the board may be installed. Upon completion of
105 the sewer construction all systems shall be abandoned and all
106 residences, buildings or facilities connected to the sewer.

107 (b) When the public sewers shall be available and ready
108 for use within a period not to exceed six (6) months, or where a
109 minor extension is to be made to a municipal system by the
110 municipality and no contract is to be awarded, an individual
111 on-site wastewater disposal system with a minimum capacity of
112 three hundred (300) gallons and at least sixty percent (60%) of
113 the required disposal field may be installed. The board shall not
114 approve a temporary system under this subsection unless the
115 professional engineer designing the sewer system has certified to
116 the board in writing that the public sewer or extension shall be
117 completed within six (6) months, and the owner of the temporary
118 system has certified in writing that connection to the public
119 sewer shall be made as soon as it becomes available.

120 (2) The board may approve the installation of sewage holding
121 tanks in districts created under Sections 19-5-151 through
122 19-5-207 for the purpose of providing sewage services. The
123 district shall be required to maintain or provide for the
124 maintenance of those holding tanks. The board shall require that
125 residences be connected to a municipal or community sewage system
126 when that system is available and ready to use.

127 SECTION 3. Section 41-67-6, Mississippi Code of 1972, is
128 amended as follows:

129 41-67-6. (1) Within five (5) working days following receipt
130 of the notice of intent and plot plan by an owner, lessee or
131 developer of any lot or tract of land, the department shall
132 conduct a soil and site evaluation, except in cases where a

133 professional engineer provides services relating to the design,
134 construction or installation of an individual on-site wastewater
135 disposal system to comply with this chapter. Within ten (10)
136 additional working days, the department shall make recommendations
137 to the owner, lessee or developer of the type or types of
138 individual on-site wastewater disposal systems suitable for
139 installation on the lot or tract, unless there are conditions
140 requiring further investigation that are revealed in the initial
141 evaluation. In making recommendations on the type or types of
142 individual on-site wastewater disposal systems suitable for
143 installation on a lot or tract, personnel of the department shall
144 use best professional judgment based on rules and regulations
145 adopted by the board, considering the type or types of systems
146 which are installed and functioning on lots or tracts near the
147 subject lot or tract. If existing systems in the surrounding area
148 function properly, systems of that same type shall be approved.
149 To the extent practicable, the recommendations shall give the
150 owner, lessee or developer maximum flexibility and a maximum
151 number of options consistent with the federal Clean Water Act,
152 consistent with maintaining the wastes on the property of the
153 generator except as authorized under Section 41-67-8, and
154 consistent with protection of the public health. The system or
155 systems recommended shall be environmentally sound and
156 cost-effective. The department or a professional engineer shall
157 provide complete information, including all applicable
158 requirements and regulations on all systems recommended. The
159 owner, lessee or developer shall have the right to choose among
160 systems. The department shall provide the owner, lessee or
161 developer with a form that specifies all types of individual
162 on-site wastewater disposal systems that are suitable for
163 installation on the lot or tract and lists all installers of those
164 systems that are certified by the department. Approval of the
165 design, construction or installation of an individual on-site

166 wastewater disposal system by the department is not required. If
167 any property owner, lessee or the owner's or lessee's lending
168 institution requests the department to approve the design,
169 construction or installation of any system on the owner's or
170 lessee's property, the department shall approve the design,
171 construction or installation of that system, as requested, if the
172 system is designed, constructed and installed, as the case may be,
173 in accordance with the rules and regulations of the board. The
174 department shall not approve any individual on-site wastewater
175 disposal system that has a direct or point source discharge,
176 unless the Permit Board has issued a permit for that system under
177 Section 41-67-8.

178 (2) Evaluations and recommendations for a subdivision shall
179 not be subject to the time constraints in this section.

180 (3) If the department has been requested to approve the
181 design, construction or installation of an individual on-site
182 wastewater disposal system, an installer may not begin the design,
183 construction or installation of the individual on-site wastewater
184 disposal system, unless the installer notifies the department of
185 the date on which the installer plans to begin work on the system.

186 (4) A person may not design, construct or install, or cause
187 to be designed, constructed or installed an individual on-site
188 wastewater disposal system that does not comply with this chapter
189 and rules and regulations of the board.

190 (5) Any person who installs an individual on-site wastewater
191 disposal system shall sign and file with the department an
192 affidavit that the system was installed in compliance with all
193 requirements and regulations applicable to that type of system.
194 If any person or contractor fails to comply with all requirements
195 and regulations in the installation of the system, the board,
196 after due notice and hearing, may levy an administrative fine not
197 to exceed One Thousand Dollars (\$1,000.00).

198 (6) Any provisions of this chapter regarding the

199 department's approval of the design, construction and installation
200 of an individual on-site wastewater disposal system shall not
201 apply to a residence, building or facility that is located on a
202 land tract that is two (2) acres or larger.

203 SECTION 4. This act shall take effect and be in force from
204 and after July 1, 1999.