

By: Senator(s) Cuevas

To: Environment Prot,
Cons and Water Res

SENATE BILL NO. 2982
(As Sent to Governor)

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, as
19 amended by House Bill No. 825, 1999 Regular Session, is amended as
20 follows:

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

25 (a) To sue and be sued;

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

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

33 (d) To incur debts, to borrow money, to issue

34 negotiable bonds, and to provide for the rights of the holders
35 thereof;

36 (e) To fix, maintain, collect and revise rates and
37 charges for services rendered by or through the facilities of such
38 district, which rates and charges shall not be subject to review
39 or regulation by the Mississippi Public Service Commission except
40 in those instances where a city operating similar services would
41 be subject to regulation and review; however, the district may
42 furnish services, including connection to the facilities of the
43 district, free of charge to the county or any agency or department
44 of the county and to volunteer fire departments located within the
45 service area of the district. The district shall obtain a
46 certificate of convenience and necessity from the Mississippi
47 Public Service Commission for operating of water and/or sewer
48 systems;

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

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

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

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

65 (j) To acquire by purchase any existing works and
66 facilities providing services for which it was created, and any

67 lands, rights, easements, franchises and other property, real and
68 personal necessary to the completion and operation of such system
69 upon such terms and conditions as may be agreed upon, and if
70 necessary as part of the purchase price to assume the payment of
71 outstanding notes, bonds or other obligations upon such system;

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

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

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

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

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

99 41-67-11. (1) Temporary individual on-site wastewater

100 disposal systems may be approved in otherwise unapprovable areas
101 only after a contract has been awarded for the construction of
102 municipal or community sewers that upon completion will adequately
103 serve the property. Temporary individual on-site wastewater
104 disposal systems shall only be approved under the following
105 conditions:

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

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

125 (2) The board may approve the installation of sewage holding
126 tanks in districts created under Sections 19-5-151 through
127 19-5-207 for the purpose of providing sewage services. The
128 district shall be required to maintain or provide for the
129 maintenance of those holding tanks. The board shall require that
130 residences be connected to a municipal or community sewage system
131 when that system is available and ready to use.

132 SECTION 3. Section 41-67-6, Mississippi Code of 1972, is

133 amended as follows:

134 41-67-6. (1) Within five (5) working days following receipt
135 of the notice of intent and plot plan by an owner, lessee or
136 developer of any lot or tract of land, the department shall
137 conduct a soil and site evaluation, except in cases where a
138 professional engineer provides services relating to the design,
139 construction or installation of an individual on-site wastewater
140 disposal system to comply with this chapter. Within ten (10)
141 additional working days, the department shall make recommendations
142 to the owner, lessee or developer of the type or types of
143 individual on-site wastewater disposal systems suitable for
144 installation on the lot or tract, unless there are conditions
145 requiring further investigation that are revealed in the initial
146 evaluation. In making recommendations on the type or types of
147 individual on-site wastewater disposal systems suitable for
148 installation on a lot or tract, personnel of the department shall
149 use best professional judgment based on rules and regulations
150 adopted by the board, considering the type or types of systems
151 which are installed and functioning on lots or tracts near the
152 subject lot or tract. If existing systems in the surrounding area
153 function properly, systems of that same type shall be approved.
154 To the extent practicable, the recommendations shall give the
155 owner, lessee or developer maximum flexibility and a maximum
156 number of options consistent with the federal Clean Water Act,
157 consistent with maintaining the wastes on the property of the
158 generator except as authorized under Section 41-67-8, and
159 consistent with protection of the public health. The system or
160 systems recommended shall be environmentally sound and
161 cost-effective. The department or a professional engineer shall
162 provide complete information, including all applicable
163 requirements and regulations on all systems recommended. The
164 owner, lessee or developer shall have the right to choose among
165 systems. The department shall provide the owner, lessee or

166 developer with a form that specifies all types of individual
167 on-site wastewater disposal systems that are suitable for
168 installation on the lot or tract and lists all installers of those
169 systems that are certified by the department. Approval of the
170 design, construction or installation of an individual on-site
171 wastewater disposal system by the department is not required. If
172 any property owner, lessee or the owner's or lessee's lending
173 institution requests the department to approve the design,
174 construction or installation of any system on the owner's or
175 lessee's property, the department shall approve the design,
176 construction or installation of that system, as requested, if the
177 system is designed, constructed and installed, as the case may be,
178 in accordance with the rules and regulations of the board. The
179 department shall not approve any individual on-site wastewater
180 disposal system that has a direct or point source discharge,
181 unless the Permit Board has issued a permit for that system under
182 Section 41-67-8.

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

185 (3) If the department has been requested to approve the
186 design, construction or installation of an individual on-site
187 wastewater disposal system, an installer may not begin the design,
188 construction or installation of the individual on-site wastewater
189 disposal system, unless the installer notifies the department of
190 the date on which the installer plans to begin work on the system.

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

195 (5) Any person who installs an individual on-site wastewater
196 disposal system shall sign and file with the department an
197 affidavit that the system was installed in compliance with all
198 requirements and regulations applicable to that type of system.

199 If any person or contractor fails to comply with all requirements
200 and regulations in the installation of the system, the board,
201 after due notice and hearing, may levy an administrative fine not
202 to exceed One Thousand Dollars (\$1,000.00).

203 (6) Any provisions of this chapter regarding the
204 department's approval of the design, construction and installation
205 of an individual on-site wastewater disposal system shall not
206 apply to a residence, building or facility that is located on a
207 land tract that is two (2) acres or larger.

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