

By: Reynolds

To: Municipalities;  
County Affairs

HOUSE BILL NO. 1527

1 AN ACT TO AMEND SECTIONS 19-5-22 AND 21-19-2, MISSISSIPPI  
2 CODE OF 1972, TO ALLOW PERSONS OTHER THAN CONSTABLES TO SERVE  
3 PROCESS IN DELINQUENT GARBAGE ACCOUNT SUITS; AND FOR RELATED  
4 PURPOSES.

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

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

8 19-5-22. (1) Fees for garbage or rubbish collection or  
9 disposal shall be assessed jointly and severally against the  
10 generator of the garbage or rubbish and against the owner of the  
11 property furnished the service. Any person who pays, as a part of  
12 a rental or lease agreement, an amount for garbage or rubbish  
13 collection or disposal services shall not be held liable upon the  
14 failure of the property owner to pay those fees.

15 (2) Every generator assessed the fees authorized by Section  
16 19-5-21 and the owner of the property occupied by that generator  
17 shall be jointly and severally liable for the fees. The fees  
18 shall be a lien upon the real property offered garbage or rubbish  
19 collection or disposal service.

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

26 If fees are assessed on a basis other than annually, the fees  
27 shall become a lien on the real property offered the service on

28 the date that the fees become due and payable.

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

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

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

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

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

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

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

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

75 (5) If a constable does not wish to serve process in a suit  
76 for collection of a delinquent account for garbage or rubbish  
77 collection disposal fees or is unavailable, then the sheriff may  
78 designate some other person to serve such process for such  
79 compensation as the sheriff and board of supervisors approve.

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

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

90 (b) The governing authority of a municipality may enter  
91 into a contract upon mutual agreement with a public or private  
92 corporation, nonprofit corporation, planning and development  
93 district or a public agency, association, utility or utility

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

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

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

127 single family residential generator of garbage and/or rubbish.

128 The governing authority also may assess and collect such fees or  
129 charges from each industrial, commercial and multi-family  
130 residential generator of garbage and/or rubbish for any time  
131 period that the generator has not otherwise contracted for the  
132 collection of garbage and/or rubbish that is ultimately disposed  
133 of at a permitted or authorized nonhazardous solid waste  
134 management facility.

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

155 In addition to the requirement for publication of notice, the  
156 governing authority of a municipality shall notify each person  
157 furnished garbage and/or rubbish collection and/or disposal  
158 service of any increase in the ad valorem tax assessment or fees  
159 or charges authorized by this section. In the case of an increase

160 of the ad valorem tax assessment, a notice shall be conspicuously  
161 placed on or attached to the first ad valorem tax bill on which  
162 the increased assessment is effective. In the case of an increase  
163 in fees or charges, a notice shall be conspicuously placed on or  
164 attached to the first bill for fees or charges on which the  
165 increased fees or charges are assessed. There shall be no  
166 language in any notice inferring a mandate from the Legislature.

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

174 (e) The governing authority may borrow money for the  
175 purpose of defraying the expenses of the system in anticipation  
176 of:

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

178 (ii) Revenues resulting from the assessment of any  
179 fees or charges for garbage and/or rubbish collection and/or  
180 disposal; or

181 (iii) Any combination thereof.

182 (3) (a) Fees or charges for garbage and/or rubbish  
183 collection and/or disposal shall be assessed jointly and severally  
184 against the generator of the garbage and/or rubbish and against  
185 the owner of the property furnished the service. However, any  
186 person who pays, as a part of a rental or lease agreement, an  
187 amount for garbage and/or rubbish collection and/or disposal  
188 services shall not be held liable upon the failure of the property  
189 owner to pay such fees.

190 (b) Every generator assessed the fees or charges  
191 provided for and limited by this section and the owner of the  
192 property occupied by that generator shall be jointly and severally

193 liable for the fees and/or charges so assessed. The fees or  
194 charges shall be a lien upon the real property offered garbage  
195 and/or rubbish collection and/or disposal service.

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

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

204 If fees or charges so assessed are assessed on a basis other  
205 than annually, the fees or charges shall become a lien on the real  
206 property offered the service on the date that the fees or charges  
207 become due and payable.

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

210 The municipality shall mail a notice of the lien, including  
211 the amount of unpaid fees or charges and a description of the  
212 property subject to the lien, to the owner of the property subject  
213 to the lien.

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

223 (d) Liens created under this section may be discharged  
224 as follows:

225 (i) By filing with the municipal tax collector a

226 receipt or acknowledgement, signed by the municipality, that the  
227 lien has been paid or discharged; or

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

231       (4) If a constable does not wish to serve process in a suit  
232 for collection of a delinquent account for garbage or rubbish  
233 collection disposal fees or is unavailable, then the governing  
234 authorities may designate some other person to serve such process  
235 for such compensation as the governing authorities approve.

236       SECTION 3. This act shall take effect and be in force from  
237 and after July 1, 2000.