To: Municipalities

MISSISSIPPI LEGISLATURE                        REGULAR SESSION 2001
By: Senator(s) Gollott, Cuevas

SENATE BILL NO. 2682

AN ACT TO AMEND SECTION 19-5-109, MISSISSIPPI CODE OF 1972, TO ALLOW A MUNICIPALITY TO USE CERTAIN SURPLUS FUNDS TO DEFRAY THE COSTS OF GARBAGE COLLECTION; TO AMEND SECTION 21-19-2, MISSISSIPPI CODE OF 1972, TO AUTHORIZE MUNICIPALITIES TO USE SURPLUS FUNDS FOR GARBAGE COLLECTION AND DISPOSAL UNDER CERTAIN CONDITIONS; AND FOR RELATED PURPOSES.

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

SECTION 1. Section 19-5-109, Mississippi Code of 1972, is amended as follows:

19-5-109. (1) Each county and municipality shall make a good faith effort to estimate the cost of garbage and rubbish collection and disposal services. These costs may be met, in amounts necessary to defray the cost of the system, by any combination of generator fees, ad valorem tax revenues as authorized under Section 19-5-21 or Section 21-19-2, or county or municipal special funds as authorized under Section 19-5-21 or 21-19-2. A municipality may also use surplus funds to defray the costs of garbage collection and disposal services as provided in Section 21-19-2.

(2) Nothing in Chapter 624, Laws of 1994, shall be construed to abrogate or cancel any contract that a county or a municipality has entered into for garbage or rubbish collection or disposal.

If a county or municipality entered into a contract before April 1, 1994, and the term or period of performance of that contract does not exceed five (5) years, the county or municipality may continue to levy the ad valorem tax assessment in effect before April 1, 1994, to honor the contract for the term of that contract.
SECTION 2. Section 21-19-2, Mississippi Code of 1972, is amended as follows:

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

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

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

(b) In addition to or in lieu of any other method
authorized to defray the cost of establishing and operating the
system provided for in Section 21-19-1, the governing body of a
municipality that has established a garbage and/or rubbish
collection and/or disposal system may assess and collect fees or
charges to defray the costs of such services. The governing
authority may assess and collect the fees or charges from each
single family residential generator of garbage and/or rubbish.
The governing authority also may assess and collect such fees or
charges from each industrial, commercial and multi-family
residential generator of garbage and/or rubbish for any time
period that the generator has not otherwise contracted for the
collection of garbage and/or rubbish that is ultimately disposed
of at a permitted or authorized nonhazardous solid waste
management facility.

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

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

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

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

(i) The tax levy authorized under this section;
(ii) Revenues resulting from the assessment of any fees or charges for garbage and/or rubbish collection and/or disposal; or

(iii) Any combination thereof.

(f) In addition to the ad valorem taxes and fees authorized in this section, if there are surplus funds or unexpended funds in any fund and are not needed for the purposes appropriated in the municipal budget, the governing authority of a municipality, by order entered on its minutes, may transfer such funds for use to defray the cost of operating the system provided in 21-19-1.

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

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

At the discretion of the governing body of the municipality, fees or charges assessed for the service may be assessed annually. If fees or charges are assessed annually, the fees or charges for each calendar year shall be a lien upon the real property offered the service beginning on January 1 of the next immediately succeeding calendar year. The person or entity owing the fees or charges, upon signing a form provided by the governing authority, may pay the fees or charges in equal installments.
If fees or charges so assessed are assessed on a basis other than annually, the fees or charges shall become a lien on the real property offered the service on the date that the fees or charges become due and payable.

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

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

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

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

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

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

SECTION 3. This act shall take effect and be in force from and after July 1, 2001.