

By: Representative Ellington

To: Conservation and Water Resources

HOUSE BILL NO. 1397
(As Sent to Governor)

1 AN ACT TO CREATE SECTION 49-17-44.1, MISSISSIPPI CODE OF
2 1972, TO AUTHORIZE THE COMMISSION ON ENVIRONMENTAL QUALITY TO
3 PETITION THE CHANCERY COURT TO APPOINT A RECEIVER FOR THE
4 OPERATION AND MANAGEMENT OF ABANDONED SEWER SYSTEMS OR SEWER
5 SYSTEMS OPERATED IN A GROSSLY INEFFECTIVE MANNER; TO PROVIDE THAT
6 PERSONS SERVED BY SUCH SEWER SYSTEMS SHALL HAVE STANDING TO
7 INTERVENE; AND FOR RELATED PURPOSES.

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

9 **SECTION 1.** The following shall be codified as Section
10 49-17-44.1, Mississippi Code of 1972:

11 49-17-44.1. If the commission determines that any privately
12 owned sewer system that is certificated by the Public Service
13 Commission and within its jurisdiction has been actually or
14 effectively abandoned by its owner, or that its management is
15 grossly inefficient or irresponsible, and the abandonment or
16 management has created an environmental problem that endangers
17 public health, the commission may petition the chancery court of
18 any county wherein the privately-owned sewer system is located for
19 an order attaching the assets of the privately-owned sewer system
20 and placing such sewer system under the sole control and
21 responsibility of a receiver. Any person served by the sewer
22 system shall have standing to intervene in the chancery proceeding
23 as an interested party. If the court determines that the petition
24 is proper in all respects and finds, after a hearing thereon, the
25 allegations contained in the petition are true, it shall order
26 that the sewer system be placed in receivership. The court, in
27 its discretion and in consideration of the recommendation of the
28 commission, may appoint a receiver who shall be a responsible
29 individual, partnership, corporation or political subdivision



30 knowledgeable in sewer service affairs and who shall maintain
31 control and responsibility for the operation and management of the
32 affairs of such sewer system. The receiver shall operate the
33 sewer system so as to preserve the assets of the sewer system and
34 to serve the best interests of its customers while protecting
35 public health and welfare and the environment. The receiver shall
36 be compensated from the assets of the sewer system in an amount to
37 be determined by the court. Control of and responsibility for the
38 sewer system shall remain in the receiver until the court
39 determines that it is in the best interests of the customers and
40 the public interest that the sewer system be returned to the
41 owner, transferred to another owner, or assumed by another sewer
42 system or public service corporation. If the court, after
43 hearing, determines that control of and responsibility for the
44 affairs of the sewer system should not be returned to the legal
45 owner thereof, the receiver may proceed to liquidate the assets of
46 the sewer system in the manner provided by law. Mississippi laws
47 and Mississippi Rules of Civil Procedure generally applicable to
48 receivership shall govern receiverships created under this
49 section. Any new owner or operator of a sewer system transferred
50 or liquidated by the receiver or the chancery court under this
51 subsection shall obtain all necessary permits and approvals from
52 the Permit Board, the Public Service Commission and any other
53 applicable state or local agencies.

54 **SECTION 2.** This act shall take effect and be in force from
55 and after its passage.

