

By: Senator(s) Doxey

To: Environment Prot, Cons
and Water Res

SENATE BILL NO. 2745
(As Sent to Governor)

1 AN ACT TO AMEND SECTION 19-5-21, MISSISSIPPI CODE OF 1972, TO
2 PROVIDE A PERSON WHOSE HOMESTEAD PROPERTY LIES PARTIALLY WITHIN
3 THE SOLID WASTE SERVICE AREA OF A MUNICIPALITY AND PARTIALLY
4 WITHIN THE SOLID WASTE SERVICE AREA OF THE COUNTY, MAY ELECT SOLID
5 WASTE SERVICE PROVIDER; AND FOR RELATED PURPOSES.

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

7 **SECTION 1.** Section 19-5-21, Mississippi Code of 1972, is
8 amended as follows:

9 19-5-21. (1) (a) Except as provided in paragraphs (b),
10 (c), (d) and (g) of this subsection, the board of supervisors, to
11 defray the cost of establishing and operating the system provided
12 for in Section 19-5-17, may levy an ad valorem tax not to exceed
13 four (4) mills on all taxable property within the area served by
14 the county garbage or rubbish collection or disposal system. The
15 service area may be comprised of unincorporated or incorporated
16 areas of the county or both; however, no property shall be subject
17 to this levy unless that property is within an area served by a
18 county's garbage or rubbish collection or disposal system.

19 (b) The board of supervisors of any county wherein
20 Mississippi Highways 35 and 16 intersect and having a land area of
21 five hundred eighty-six (586) square miles may levy, in its
22 discretion, for the purposes of establishing, operating and
23 maintaining a garbage or rubbish collection or disposal system, an
24 ad valorem tax not to exceed six (6) mills on all taxable property
25 within the area served by the system as set out in paragraph (a)
26 of this subsection.

27 (c) The board of supervisors of any county bordering on
28 the Mississippi River and traversed by U.S. Highway 61, and which

29 is intersected by Mississippi Highway 4, having a population of
30 eleven thousand eight hundred fifty-four (11,854) according to the
31 1970 federal census, and having an assessed valuation of Fourteen
32 Million Eight Hundred Seventy-two Thousand One Hundred Forty-four
33 Dollars (\$14,872,144.00) in 1970, may levy, in its discretion, for
34 the purposes of establishing, operating and maintaining a garbage
35 or rubbish collection or disposal system, an ad valorem tax not to
36 exceed six (6) mills on all taxable property within the area
37 served by the system as set out in paragraph (a) of this
38 subsection.

39 (d) The board of supervisors of any county having a
40 population in excess of Two Hundred Fifty Thousand (250,000),
41 according to the latest federal decennial census, and in which
42 Interstate Highway 55 and Interstate Highway 20 intersect, may
43 levy, in its discretion, for the purposes of establishing,
44 operating and maintaining a garbage or rubbish collection or
45 disposal system, an ad valorem tax not to exceed seven (7) mills
46 on all taxable property within the area served by the system as
47 set out in paragraph (a) of this subsection.

48 (e) The proceeds derived from any additional millage
49 levied pursuant to paragraphs (a) through (d) of this subsection
50 in excess of two (2) mills shall be excluded from the ten percent
51 (10%) increase limitation under Section 27-39-321 for the first
52 year of such additional levy and shall be included within such
53 limitation in any year thereafter. The proceeds from any millage
54 levied pursuant to paragraph (g) shall be excluded from the ten
55 percent (10%) increase limitation under Section 27-39-321 for the
56 first year of the levy and shall be included within the limitation
57 in any year thereafter.

58 (f) The rate of the ad valorem tax levied under this
59 section shall be shown as a line item on the notice of ad valorem
60 taxes on taxable property owed by the taxpayer.

61 (g) In lieu of the ad valorem tax authorized in
62 paragraphs (a), (b), (c) and (d) of this subsection, the fees
63 authorized in subsection (2) of this subsection and in Section
64 19-5-17 or any combination thereof, the board of supervisors may
65 levy an ad valorem tax not to exceed six (6) mills to defray the
66 cost of establishing and operating the system provided for in
67 Section 19-5-17 on all taxable property within the area served by
68 the system as provided in paragraph (a) of this subsection.

69 Any board of supervisors levying the ad valorem tax
70 authorized in this paragraph (g) is prohibited from assessing or
71 collecting fees for the services provided under the system.

72 (2) In addition to the ad valorem taxes authorized in
73 paragraphs (a), (b) and (c) of subsection (1) or in lieu of any
74 other method authorized to defray the cost of establishing and
75 operating the system provided for in Section 19-5-17, the board of
76 supervisors of any county with a garbage or rubbish collection or
77 disposal system may assess and collect fees to defray the costs of
78 the services. The board of supervisors may assess and collect the
79 fees from each single family residential generator of garbage or
80 rubbish. The board of supervisors also may assess and collect the
81 fees from each industrial, commercial and multifamily residential
82 generator of garbage or rubbish for any time period that the
83 generator has not contracted for the collection of garbage and
84 rubbish that is ultimately disposed of at a permitted or
85 authorized nonhazardous solid waste management facility. The fees
86 assessed and collected under this subsection may not exceed, when
87 added to the proceeds derived from any ad valorem tax imposed
88 under this section and any special funds authorized under
89 subsection (7), the actual costs estimated to be incurred by the
90 county in operating the county garbage and rubbish collection and
91 disposal system.

92 (3) (a) Before the adoption of any order to increase the ad
93 valorem tax assessment or fees authorized by this section, the

94 board of supervisors shall publish a notice advertising their
95 intent to adopt an order to increase the ad valorem tax assessment
96 or fees authorized by this section. The notice shall specify the
97 purpose of the proposed increase, the proposed percentage increase
98 and the proposed percentage increase in total revenues for garbage
99 or rubbish collection or disposal services or shall contain a copy
100 of the resolution by the board stating their intent to increase
101 the ad valorem tax assessment or fees. The notice shall be
102 published in a newspaper published or having general circulation
103 in the county for no less than three (3) consecutive weeks before
104 the adoption of the order. The notice shall be in print no less
105 than the size of eighteen (18) point and shall be surrounded by a
106 one-fourth (1/4) inch black border. The notice shall not be
107 placed in the legal section notice of the newspaper. There shall
108 be no language in the notice stating or implying a mandate from
109 the Legislature.

110 (b) In addition to the requirement for publication of
111 notice, the board of supervisors shall notify each person
112 furnished garbage or rubbish collection or disposal service of any
113 increase in the ad valorem tax assessment or fees. In the case of
114 an increase of the ad valorem tax assessment, a notice shall be
115 conspicuously placed on or attached to the first ad valorem tax
116 bill on which the increased assessment is effective. In the case
117 of an increase in fees, a notice shall be conspicuously placed on
118 or attached to the first bill for fees on which the increased fees
119 or charges are assessed. There shall be no language in any notice
120 stating or implying a mandate from the Legislature.

121 (4) The board of supervisors of each county shall adopt an
122 order determining whether or not to grant exemptions, either full
123 or partial, from the fees for certain classes of generators of
124 garbage or rubbish. If a board of supervisors grants any
125 exemption, it shall do so in accordance with policies and
126 procedures, duly adopted and entered on its minutes, that clearly

127 define those classes of generators to whom the exemptions are
128 applicable. The order granting exemptions shall be interpreted
129 consistently by the board when determining whether to grant or
130 withhold requested exemptions.

131 (5) (a) The board of supervisors in any county with a
132 garbage or rubbish collection or disposal system only for
133 residents in unincorporated areas may adopt an order authorizing
134 any single family generator to elect not to use the county garbage
135 or rubbish collection or disposal system. If the board of
136 supervisors adopts an order, the head of any single family
137 residential generator may elect not to use the county garbage or
138 rubbish collection or disposal service by filing with the chancery
139 clerk the form provided for in this subsection before December 1
140 of each year. The board of supervisors shall develop a form that
141 shall be available in the office of the chancery clerk for the
142 head of household to elect not to use the service and to accept
143 full responsibility for the disposal of his garbage or rubbish in
144 accordance with state and federal laws and regulations. The board
145 of supervisors, following consultation with the Department of
146 Environmental Quality, shall develop and the chancery clerk shall
147 provide a form to each person electing not to use the service
148 describing penalties under state and federal law and regulations
149 for improper or unauthorized management of garbage. Notice that
150 the election may be made not to use the county service by filing
151 the form with the chancery clerk's office shall be published in a
152 newspaper published or having general circulation in the county
153 for no less than three (3) consecutive weeks, with the first
154 publication being made no sooner than five (5) weeks before the
155 first day of December. The notice shall state that any single
156 family residential generator may elect not to use the county
157 garbage or rubbish collection or disposal service by the
158 completion and filing of the form for that purpose with the
159 chancery clerk's office before December 1 of that year. The

160 notice shall also include a statement that any single family
161 residential generator who does not timely file the form shall be
162 assessed any fees levied to cover the cost of the county garbage
163 or rubbish collection or disposal service. The chancery clerk
164 shall maintain a list showing the name and address of each person
165 who has filed a notice of intent not to use the county garbage or
166 rubbish collection or disposal service.

167 (b) If the homestead property of a person lies partially
168 within the unincorporated service area of a county and partially
169 within the incorporated service area of a municipality and both
170 the municipality and the county provide garbage collection and
171 disposal service to that person, then the person may elect to use
172 either garbage collection and disposal service. The person shall
173 notify the clerk of the governing authority of the local
174 government whose garbage collection and disposal service he elects
175 not to use of his decision not to use such services by certified
176 mail, return receipt requested. The person shall not be liable
177 for any fees or charges from the service he elects not to use.

178 (6) The board may borrow money for the purposes of defraying
179 the expenses of the system in anticipation of:

- 180 (a) The tax levy authorized under this section;
- 181 (b) Revenues resulting from the assessment of any fees
182 for garbage or rubbish collection or disposal; or
- 183 (c) Any combination thereof.

184 (7) In addition to the fees or ad valorem millage authorized
185 under this section, a board of supervisors may use monies from any
186 special funds of the county that are not otherwise required by law
187 to be dedicated for use for a particular purpose in order to
188 defray the costs of the county garbage or rubbish collection or
189 disposal system.

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