

By: Representatives Franks, Holland

To: Conservation and Water Resources; Ways and Means

HOUSE BILL NO. 816

1 AN ACT TO AMEND SECTIONS 19-5-17, 21-19-1 AND 17-17-5,
2 MISSISSIPPI CODE OF 1972, TO PROHIBIT THE BOARD OF SUPERVISORS OF
3 ANY COUNTY OR THE GOVERNING AUTHORITIES OF ANY MUNICIPALITY FROM
4 CHARGING, COLLECTING OR IMPOSING ANY LICENSE TAX, FRANCHISE FEE OR
5 OTHER TAX OR FEE, EXCEPT AS SPECIFICALLY AUTHORIZED UNDER THE
6 LOCAL PRIVILEGE TAX LAW, AS A CONDITION FOR ALLOWING ANY PERSON,
7 FIRM, CORPORATION OR OTHER LEGAL ENTITY TO ENGAGE IN THE BUSINESS
8 OF COLLECTING OR DISPOSING OF GARBAGE OR RUBBISH; AND FOR RELATED
9 PURPOSES.

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

11 **SECTION 1.** Section 19-5-17, Mississippi Code of 1972, is
12 amended as follows:

13 19-5-17. After December 31, 1992, the board of supervisors
14 of any county in the state shall provide for the collection and
15 disposal of garbage and the disposal of rubbish, and for that
16 purpose is required to establish, operate and maintain a garbage
17 and/or rubbish disposal system or systems; to acquire property,
18 real or personal, by contract, gift or purchase, necessary or
19 proper for the maintenance and operation of such system; to make
20 all necessary rules and regulations for the collection and
21 disposal of garbage and/or rubbish and, if it so desires, to
22 establish, maintain and collect rates, fees and charges for
23 collecting and disposing of such garbage and/or rubbish; and, in
24 its discretion, to enter into contracts, in the manner required by
25 law, with individuals, associations or corporations for the
26 establishment, operation and maintenance of a garbage and rubbish
27 disposal system or systems, and/or to enter into contracts on such
28 terms as the board of supervisors thinks proper with any
29 municipality, other county or region, enabling the county to use
30 jointly with such municipality, other county or region any

31 collection system, authorized rubbish landfill or permitted
32 sanitary landfill operated by the municipality, other county or
33 region. The board of supervisors shall designate by order the
34 area to be served by the system. All persons in the county
35 generating garbage shall utilize a garbage collection and disposal
36 system. However, this provision shall not prohibit any person
37 from managing solid waste generated by such person in any
38 municipal solid waste management facility owned by the generator.

39 As a necessary incident to such county's power and authority
40 to establish, maintain and collect such rates, fees and charges
41 for collecting and disposing of such garbage and/or rubbish, and
42 as a necessary incident to such county's power and authority to
43 establish, operate and maintain a garbage and/or rubbish disposal
44 system or systems, the board of supervisors of such county shall
45 have the authority to initiate a civil action to recover any
46 delinquent fees and charges for collecting and disposing of such
47 garbage and/or rubbish, and all administrative and legal costs
48 associated with collecting such fees and charges, in the event any
49 person, firm or corporation, including any municipal corporation,
50 shall fail or refuse to pay such fees and charges for collecting
51 and disposing of garbage and/or rubbish; provided that such board
52 of supervisors may initiate such a civil action to recover such
53 delinquent fees and charges whether or not such county has
54 previously entered into a contract with such individual, firm or
55 corporation, including a municipal corporation, relating to the
56 establishment, operation and maintenance of such garbage and/or
57 rubbish disposal system or systems; provided, further, that in a
58 civil action to recover such delinquent fees and charges for
59 collecting and disposing of such garbage and/or rubbish, and all
60 administrative and legal costs associated with collecting such
61 fees and charges, the county shall in all respects be a proper
62 party to such suit as plaintiff and shall have the power to sue
63 for and recover such unpaid fees and charges and all

64 administrative and legal costs associated with collecting such
65 fees and charges, from any person, firm or corporation, including
66 a municipal corporation, as may fail, refuse or default in the
67 payment of such fees and charges.

68 The board of supervisors of any county may not charge,
69 collect or impose any license tax, franchise fee or other tax or
70 fee, except as specifically authorized under the Local Privilege
71 Tax Law, being Chapter 17 of Title 27, Mississippi Code of 1972,
72 as a condition for allowing any person, firm, corporation or other
73 legal entity to engage in the business of collecting or disposing
74 of garbage or rubbish.

75 **SECTION 2.** Section 21-19-1, Mississippi Code of 1972, is
76 amended as follows:

77 21-19-1. (1) The municipal governing authorities of any
78 municipality shall have the power to make regulations to secure
79 the general health of the municipality; to prevent, remove, and
80 abate nuisances; to regulate or prohibit the construction of privy
81 vaults and cesspools, and to regulate or suppress those already
82 constructed; to compel and regulate the connection of all property
83 with sewers and drains; to suppress hog pens, slaughterhouses and
84 stockyards, or to regulate the same and prescribe and enforce
85 regulations for cleaning and keeping the same in order; to
86 regulate and prescribe and enforce regulations for the cleaning
87 and keeping in order of warehouses, stables, alleys, yards,
88 private ways, outhouses, and other places where offensive matter
89 is kept or permitted to accumulate; and to compel and regulate the
90 removal of garbage and filth beyond the corporate limits. The
91 municipal governing authorities are further authorized to adopt
92 and enforce regulations governing the disposal of garbage and
93 rubbish in sanitary landfills owned or leased by the municipality,
94 whether located within or outside of the corporate limits of the
95 municipality, to the extent that such regulations are not in

96 conflict with or prohibited by regulations of the Commission on
97 Environmental Quality adopted under Section 17-17-27.

98 (2) After December 31, 1992, the governing body of any
99 municipality in the state shall provide for the collection and
100 disposal of garbage and the disposal of rubbish, and for that
101 purpose the governing body shall have the power to:

102 (a) Establish, operate and maintain a garbage and/or
103 rubbish collection and disposal system or systems;

104 (b) Acquire property, real or personal, by contract,
105 gift or purchase, necessary or proper for the maintenance and
106 operation of such system;

107 (c) Make all necessary rules and regulations for the
108 collection and disposal of garbage and/or rubbish not in conflict
109 with or prohibited by rules and regulations of the Commission on
110 Environmental Quality adopted under Section 17-17-27 and, if it so
111 desires, establish, maintain and collect rates, fees and charges
112 for collecting and disposing of such garbage and/or rubbish; and

113 (d) In its discretion, enter into contracts, in the
114 manner required by law, with individuals, associations or
115 corporations for the establishment, operation and maintenance of a
116 garbage or rubbish disposal system or systems, and/or enter into
117 contracts on such terms as the municipal governing body thinks
118 proper with any other municipality, county or region enabling the
119 municipality to use jointly with such other municipality, county
120 or region any authorized rubbish landfill or permitted sanitary
121 landfill operated by the other municipality, other county or
122 region.

123 As a necessary incident to such municipal governing
124 authority's power and authority to establish, maintain and collect
125 such rates, fees and charges for collecting and disposing of such
126 garbage and/or rubbish, and as a necessary incident to such
127 municipal governing authority's power and authority to establish,
128 operate and maintain a garbage and/or rubbish disposal system or

129 systems, the municipal governing authority of such municipality
130 shall have the authority to initiate a civil action to recover any
131 delinquent fees and charges for collecting and disposing of such
132 rubbish, and all administrative and legal costs associated with
133 collecting such fees and charges, in the event any person, firm or
134 corporation, including any municipal corporation, shall fail or
135 refuse to pay such fees and charges for collecting and disposing
136 of garbage and/or rubbish; provided that such municipal governing
137 authority may initiate such a civil action to recover such
138 delinquent fees and charges whether or not such municipality has
139 previously entered into a contract with such individual, firm or
140 corporation, relating to the establishment, operation and
141 maintenance of such garbage and/or rubbish disposal system or
142 systems; provided further, that in a civil action to recover such
143 delinquent fees and charges for collecting and disposing of such
144 garbage and/or rubbish, and all administrative and legal costs
145 associated with collecting such fees and charges, the municipality
146 shall in all respects be a proper party to such suit as plaintiff
147 and shall have the power to sue for and recover such unpaid fees
148 and charges, and all administrative and legal costs associated
149 with collecting such fees and charges from any person, firm or
150 corporation, as may fail, refuse or default in the payment of such
151 fees and charges.

152 The governing authorities of any municipality may not charge,
153 collect or impose any license tax, franchise fee or other tax or
154 fee, except as specifically authorized under the Local Privilege
155 Tax Law, being Chapter 17 of Title 27, Mississippi Code of 1972,
156 as a condition for allowing any person, firm, corporation or other
157 legal entity to engage in the business of collecting or disposing
158 of garbage or rubbish.

159 **SECTION 3.** Section 17-17-5, Mississippi Code of 1972, is
160 amended as follows:

161 17-17-5. (1) After December 31, 1992, the board of
162 supervisors and/or municipal governing body shall provide for the
163 collection and disposal of garbage and the disposal of rubbish.
164 The board of supervisors and/or municipal governing body may
165 provide such collection or disposal services by contract with
166 private or other controlling agencies, and the service may include
167 house-to-house service or the placement of regularly serviced and
168 controlled bulk refuse receptacles within reasonable distance from
169 the farthest affected household, and the wastes disposed of in a
170 manner acceptable to the department and within the meaning of this
171 chapter. The board of supervisors and/or municipal governing body
172 shall have the power to and are hereby authorized to enter into
173 contracts related in any manner to the collection and
174 transportation of solid wastes for a term of up to six (6) years
175 and to enter into contracts related in any manner to the
176 generation and sale of energy generated from solid waste, and
177 contracts for treatment, processing, distribution, recycling,
178 elimination or disposal of solid wastes for a term of up to thirty
179 (30) years. The municipal governing body of any municipality is
180 authorized to regulate the disposal of garbage and rubbish in
181 sanitary landfills, as provided in Section 21-19-1, Mississippi
182 Code of 1972.

183 (2) In the event an unincorporated area which is annexed by
184 a municipality is being provided collection and disposal of
185 garbage and rubbish under contract with private or other
186 controlling agencies, the municipality shall annex the area
187 subject to the contract for the remainder of the term of the
188 contract, but not to exceed five (5) years.

189 The board of supervisors of any county and/or the governing
190 authorities of any municipality may not charge, collect or impose
191 any license tax, franchise fee or other tax or fee, except as
192 specifically authorized under the Local Privilege Tax Law, being
193 Chapter 17 of Title 27, Mississippi Code of 1972, as a condition

194 for allowing any person, firm, corporation or other legal entity
195 to engage in the business of collecting or disposing of garbage or
196 rubbish.

197 **SECTION 4.** This act shall take effect and be in force from
198 and after July 1, 2005.