

By: Senator(s) Moffatt

To: Environment Prot, Cons
and Water Res; Public Health
and Welfare

SENATE BILL NO. 2538

1 AN ACT TO AMEND SECTION 41-67-1, MISSISSIPPI CODE OF 1972, TO
 2 STATE PUBLIC POLICY REGARDING INDIVIDUAL ON-SITE WASTEWATER
 3 DISPOSAL SYSTEMS; TO AMEND SECTION 41-67-2, MISSISSIPPI CODE OF
 4 1972, TO DEFINE CERTAIN TERMS; TO AMEND SECTION 41-67-3,
 5 MISSISSIPPI CODE OF 1972, TO PROVIDE THAT THE BOARD OF HEALTH
 6 SHALL DETERMINE THE SUITABILITY OF INDIVIDUAL ON-SITE WASTEWATER
 7 DISPOSAL SYSTEMS IN SUBDIVISIONS; TO REQUIRE BOARD OF HEALTH
 8 APPROVAL OF SYSTEMS BEFORE PUBLIC WATER SOURCE MAY BE CONNECTED TO
 9 SITE; TO AMEND SECTION 41-67-4, MISSISSIPPI CODE OF 1972, TO
 10 PROVIDE STANDARDS FOR THE BOARD OF HEALTH TO DETERMINE SUITABILITY
 11 OF INDIVIDUAL ON-SITE WASTEWATER DISPOSAL SYSTEMS WHEN COMPARED TO
 12 THE FEASIBILITY OF CENTRALIZED SYSTEMS IN SUBDIVISIONS; TO REMOVE
 13 THE AUTHORITY OF THE COMMISSION ON ENVIRONMENTAL QUALITY RELATING
 14 TO FEASIBILITY DETERMINATION OF CENTRALIZED SEWERAGE SYSTEMS; TO
 15 AMEND SECTION 41-67-6, MISSISSIPPI CODE OF 1972, TO REVISE
 16 INSTALLATION DEADLINES AND PROCEDURES; TO INCREASE THE
 17 ADMINISTRATIVE PENALTY FOR INSTALLATION OF SYSTEMS IN VIOLATION OF
 18 LAW OR REGULATIONS; TO AMEND SECTION 41-67-11, MISSISSIPPI CODE OF
 19 1972, TO PROVIDE REQUIREMENTS FOR THE USE OF TEMPORARY INDIVIDUAL
 20 ON-SITE WASTEWATER DISPOSAL SYSTEMS; TO AMEND SECTION 41-67-15,
 21 MISSISSIPPI CODE OF 1972, TO PROVIDE THAT THE DEPARTMENT OF HEALTH
 22 SHALL NOT ENFORCE LOCAL ORDINANCES; TO AMEND SECTION 41-67-25,
 23 MISSISSIPPI CODE OF 1972, TO REQUIRE PERFORMANCE BONDS FOR
 24 INSTALLERS AND TO PROVIDE A PENALTY FOR INSTALLERS WHO OPERATE
 25 WITHOUT CERTIFICATION FROM THE BOARD OF HEALTH; TO AMEND SECTION
 26 41-67-27, MISSISSIPPI CODE OF 1972, TO CLARIFY REGISTRATION
 27 REQUIREMENTS FOR MANUFACTURERS OF INDIVIDUAL ON-SITE WASTEWATER
 28 DISPOSAL SYSTEMS; TO AMEND SECTION 41-67-29, MISSISSIPPI CODE OF
 29 1972, TO REVISE THE APPELLATE PROCEDURE FOR PERSONS AGGRIEVED BY
 30 DECISIONS OF THE DEPARTMENT OF HEALTH; TO CONFORM APPEALS
 31 PROCEDURE TO STANDARD APPELLATE PROCESS OF THE DEPARTMENT OF
 32 HEALTH; TO AMEND SECTIONS 41-67-5, 41-67-7, 41-67-9 AND 41-67-10,
 33 MISSISSIPPI CODE OF 1972, TO CONFORM; TO PROVIDE FOR THE
 34 CERTIFICATION OF MAINTENANCE PROVIDERS; TO PROVIDE FOR THE
 35 LICENSING OF PERSONS REMOVING AND DISPOSING OF SLUDGE FROM
 36 INDIVIDUAL ON-SITE WASTEWATER DISPOSAL SYSTEMS; TO REQUIRE
 37 CERTIFICATION OF CERTIFIED PROFESSIONAL EVALUATORS; TO ESTABLISH
 38 REQUIREMENTS FOR CERTIFIED PROFESSIONAL EVALUATORS; TO REPEAL
 39 SECTION 41-67-8, MISSISSIPPI CODE OF 1972, WHICH PROVIDES FOR
 40 DUTIES OF THE PERMIT BOARD WHEN WASTE IS DISCHARGED OFF-SITE; TO
 41 REPEAL SECTION 41-67-16, MISSISSIPPI CODE OF 1972, WHICH REQUIRED
 42 A STUDY OF ALL INDIVIDUAL ON-SITE WASTEWATER DISPOSAL SYSTEMS; TO
 43 REPEAL SECTION 41-67-31, MISSISSIPPI CODE OF 1972, WHICH PROVIDES
 44 FOR THE REPEAL OF THE "MISSISSIPPI INDIVIDUAL ON-SITE WASTEWATER
 45 DISPOSAL SYSTEM LAW"; AND FOR RELATED PURPOSES.

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

47 **SECTION 1.** Section 41-67-1, Mississippi Code of 1972, is
 48 amended as follows:

49 41-67-1. (1) This chapter shall be known and may be cited
50 as the "Mississippi Individual On-Site Wastewater Disposal System
51 Law."

52 (2) It is the purpose of the Legislature through this
53 chapter to protect human health and the environment while
54 providing for reasonable use of individual on-site wastewater
55 disposal systems. The Legislature finds that continued
56 installation and operation of individual on-site wastewater
57 disposal systems in a faulty or improper manner, in a manner that
58 lacks essential maintenance for the system, or in areas where
59 unsuitable soil and population density adversely affect the
60 efficiency and functioning of these systems, has a detrimental
61 effect on the public health and welfare and the environment
62 through contamination of land, groundwater and surface waters.
63 The Legislature, therefore, expresses a general preference for the
64 installation and operation of centralized sewerage systems in
65 Mississippi, where feasible. The Legislature recognizes, however,
66 that individual on-site wastewater treatment and disposal systems
67 help meet the needs of the state's citizens, especially in rural
68 locations, and can be rendered ecologically safe and protective of
69 the public health if the systems are designed, installed,
70 constructed, maintained and operated properly. It is the intent
71 of the Legislature to allow the continued installation, use and
72 maintenance of individual on-site wastewater disposal systems in a
73 manner that will not jeopardize public health and welfare or the
74 environment.

75 **SECTION 2.** Section 41-67-2, Mississippi Code of 1972, is
76 amended as follows:

77 41-67-2. For purposes of this chapter, the following words
78 shall have the meanings ascribed herein unless the context clearly
79 indicates otherwise:

80 (a) "Advanced treatment system" means individual
81 on-site wastewater treatment systems that comply with Section
82 47-67-10.

83 * * *

84 (b) "Alternative system" means any on-site sewage
85 treatment and disposal system used in lieu of a conventional
86 system.

87 (c) "Board" means the Mississippi State Board of
88 Health.

89 (d) "Centralized sewerage system" means pipelines or
90 conduits, pumping stations, force mains, and all other
91 construction, devices and appliances appurtenant thereto, used for
92 the collection and conveyance of sewage to a treatment works or
93 point of ultimate disposal other than an individual on-site
94 wastewater disposal system.

95 (e) "Certified maintenance provider" means any person
96 or business entity that holds a written certification issued by
97 the department allowing the person to provide maintenance services
98 associated with approved on-site wastewater treatment and disposal
99 systems.

100 (f) "Certified professional evaluator" means any person
101 who has met the requirements of Section 18 of this act.

102 (g) "Conventional system" means an individual on-site
103 wastewater disposal system consisting of a septic tank and
104 gravity-fed subsurface disposal field.

105 (h) "Decentralized wastewater management entity" means
106 an entity certificated through the Public Service Commission that
107 undertakes the centralized management and monitoring of individual
108 on-site wastewater disposal system or systems, including, but not
109 limited to, planning, construction, operation, maintenance and
110 financing programs concerning those systems to be managed.

111 (i) "Department" means the Mississippi State Department
112 of Health.

113 (j) "Generator" means any person whose act or process
114 produces sewage or other material suitable for disposal in an
115 individual on-site wastewater disposal system.

116 (k) "Individual on-site wastewater disposal system"
117 means a * * * sewage treatment and effluent disposal system that
118 does not discharge into waters of the state, that serves only one
119 (1) legal tract, that accepts only human sanitary waste and
120 similar waste streams maintained on the property of the generator,
121 and that is designed and installed in accordance with this law,
122 and regulations of the board * * *.

123 (l) "Installer" means any person who has met the
124 requirements of Section 41-67-25.

125 (m) "Managed decentralized sewerage system" means an
126 individual on-site wastewater disposal system or systems, under
127 management of a decentralized management entity, used to treat and
128 dispose of relatively small volumes of wastewater, generally from
129 dwellings and businesses.

130 (n) "Performance-based system" means an individual
131 on-site wastewater disposal system designed to meet standards
132 established to designate a level of treatment of wastewater that
133 an individual on-site wastewater disposal system must meet,
134 including, but not limited to, biochemical oxygen demand, total
135 suspended solids, nutrient reduction and fecal coliform.

136 (o) "Person" means any individual, trust, firm,
137 joint-stock company, public or private corporation (including a
138 government corporation), partnership, association, state, or any
139 agency or institution thereof, municipality, commission, political
140 subdivision of a state or any interstate body, and includes any
141 officer or governing or managing body of any municipality,
142 political subdivision, or the United States or any officer or
143 employee thereof.

144 * * *

145 (p) "Property of the generator" means land owned by or
146 under permanent legal easement or lease to the generator.

147 (q) "Subdivision" means any tract or combination of
148 adjacent tracts of land that is subdivided into two (2) or
149 more * * * tracts, sites or parcels for the purpose of commercial
150 or residential development.

151 **SECTION 3.** Section 41-67-3, Mississippi Code of 1972, is
152 amended as follows:

153 41-67-3. (1) The State Board of Health shall have the
154 following duties and responsibilities:

155 (a) To exercise general supervision over the design,
156 construction, operation and maintenance of individual on-site
157 wastewater disposal systems * * *;

158 (b) To adopt, modify, repeal and promulgate rules and
159 regulations, after due notice and hearing, and where not otherwise
160 prohibited by federal or state law, to make exceptions to, to
161 grant exemptions from and to enforce rules and regulations
162 implementing or effectuating the duties of the board under this
163 chapter to protect the public health. The board may grant
164 variances from rules and regulations adopted under this chapter,
165 including requirements for buffer zones, or from setbacks required
166 under Section 41-67-7 where the granting of a variance shall not
167 subject the public to unreasonable health risks or jeopardize
168 environmental resources;

169 (c) To provide or deny certification for persons
170 engaging in the business of the design, construction or
171 installation of individual on-site wastewater disposal systems and
172 persons engaging in the removal and disposal of the sludge and
173 liquid waste from those systems;

174 (d) To suspend or revoke certifications issued to
175 persons engaging in the business of the design, construction or
176 installation of individual on-site wastewater disposal systems or
177 persons engaging in the removal and disposal of the sludge and

178 liquid waste from those systems, when it is determined the person
179 has violated this chapter or applicable rules and
180 regulations; * * *

181 (e) To require the submission of information deemed
182 necessary by the department to determine the suitability of
183 individual lots for individual on-site wastewater disposal
184 systems; and

185 (f) To adopt, modify, repeal and promulgate rules and
186 regulations, after due notice and hearing, and where not otherwise
187 prohibited by federal or state law, as necessary to determine the
188 suitability of individual on-site wastewater disposal systems in
189 subdivisions.

190 (2) Nothing in this chapter shall preclude a certified
191 professional evaluator from providing services relating to the
192 design * * * of an individual on-site wastewater disposal system
193 to comply with this chapter; except for performance-based systems
194 as specified in subsection (4) of this section. * * * A certified
195 professional evaluator shall notify the department in writing of
196 those services being provided prior to construction or
197 installation. If a certified professional evaluator designs * * *
198 a design-based individual on-site wastewater disposal system
199 consistent with this chapter, the certified professional evaluator
200 shall stamp the appropriate documentation with that certified
201 professional evaluator's appropriate registration or licensure
202 number, if applicable, and the department's certification number
203 and submit the stamped, appropriate documentation to the
204 department for review. Once the department has concurred that the
205 recommended system will adequately treat and dispose of all waste,
206 will maintain the waste on the property of the generator, will not
207 discharge to waters of the state and be in compliance with this
208 law and the corresponding regulations, the department shall
209 approve the design * * * of the system. * * * Construction or
210 installation * * * prior to department approval is prohibited.

211 (3) To assure the effective and efficient administration of
212 this chapter, the board shall adopt rules governing the design,
213 construction or installation, operation and maintenance of
214 individual on-site wastewater disposal systems, including rules
215 concerning the:

216 (a) Review and approval of individual on-site
217 wastewater disposal systems in accordance with Section 41-67-6;

218 (b) Certification of installers of individual on-site
219 wastewater disposal systems and persons engaging in the removal
220 and disposal of the sludge and liquid waste from those
221 systems; * * *

222 (c) Registration and requirements for testing and
223 listing of manufacturers of advanced treatment systems;

224 (d) Certification of maintenance providers; and

225 (e) Certification of certified professional evaluators.

226 (4) In addition, the board shall adopt rules establishing
227 performance standards for individual on-site wastewater disposal
228 systems for single family residential generators and rules
229 concerning the operation and maintenance of individual on-site
230 wastewater disposal systems designed to meet those standards. The
231 performance standards shall be consistent with the federal Clean
232 Water Act, maintaining the wastes on the property of the
233 generator * * *, and protection of the public health. Rules for
234 the operation and maintenance of individual on-site wastewater
235 disposal systems designed to meet performance standards shall
236 include rules concerning the following:

237 (a) A standard application form and requirements for
238 supporting documentation;

239 (b) Application review;

240 (c) Approval or denial of authorization for proposed
241 systems;

242 (d) Requirements, as deemed appropriate by the board,
243 for annual renewal of authorization;

244 (e) Enforcement of the requirements and conditions of
245 authorization; and

246 (f) Inspection, monitoring, sampling and reporting on
247 the performance of the system.

248 Any system proposed for authorization in accordance with
249 performance standards must be designed and certified by a
250 professional engineer registered in the State of Mississippi who
251 is a certified professional evaluator and must be authorized by
252 the board before installation. * * *

253 (5) To the extent practicable, all rules and regulations
254 adopted under this chapter shall give maximum flexibility to
255 persons installing individual on-site wastewater disposal systems
256 and a maximum number of options consistent with the federal Clean
257 Water Act, consistent with maintaining the wastes on the property
258 of the generator * * *, and consistent with protection of the
259 public health. In addition, all rules and regulations, to the
260 extent practicable, shall encourage the use of economically
261 feasible systems, including alternative techniques and
262 technologies for individual on-site wastewater disposal.

263 (6) All regulations shall be applied uniformly in all areas
264 of the state and shall take into consideration and make provision
265 for different types of soil in the state when performing soil and
266 site evaluations.

267 (7) No public utility supplying water shall make connection
268 to any dwelling house, mobile home or residence without the prior
269 written approval of the department certifying that the sewage
270 treatment and disposal system at the location of the property
271 complies with this chapter. Temporary connections of water
272 utilities may be made during construction if the department has
273 approved a plan for a sewage treatment and disposal system and the
274 owner of the property has agreed to have the system inspected and
275 approved by the department prior to the use or occupancy of the
276 property.

277 **SECTION 4.** Section 41-67-4, Mississippi Code of 1972, is
278 amended as follows:

279 41-67-4. (1) In all subdivisions where the developer
280 proposes the use of individual on-site wastewater disposal systems
281 as opposed to centralized sewerage systems and upon the submission
282 by the developer of a * * * design and suitability study prepared
283 by a professional engineer registered in the State of Mississippi,
284 the board shall make a determination as to the suitability of
285 individual on-site wastewater disposal systems as compared to the
286 feasibility of establishing a centralized sewerage system. In
287 determining whether the centralized sewerage system is feasible,
288 the board shall consider, at a minimum, the following:

289 (a) No person shall install an individual on-site
290 wastewater disposal system in any subdivision, as defined in this
291 chapter, unless the board has determined that individual on-site
292 wastewater disposal systems can be designed, installed, operated
293 and maintained in accordance with this law and applicable
294 regulations of the board, that the individual on-site wastewater
295 disposal systems will properly treat and maintain all wastewater
296 on the property of the generator, and that the use of the on-site
297 wastewater disposal systems will comply with all other
298 requirements. In subdivisions that otherwise meet the
299 requirements of this chapter and applicable regulations of the
300 board, the board shall utilize criteria set out in paragraph (b)
301 of this subsection to make its economic determination of the
302 suitability of individual on-site wastewater disposal systems.

303 (b) The initial capital costs of providing a
304 centralized sewerage system and the initial capital costs of
305 connecting to an existing collection system shall each be compared
306 with the cost of providing appropriate individual on-site
307 treatment for each lot. If the cost on a per lot basis for
308 providing a centralized sewerage system is less than two hundred
309 percent (200%) of the cost of an individual on-site system

310 technology recommended by the department or a certified
311 professional evaluator, then a centralized sewerage system will be
312 deemed feasible. If the cost on a per lot basis for connecting to
313 an existing collection system is less than two hundred percent
314 (200%) of the cost of an individual on-site system technology
315 recommended by the department or a certified professional
316 evaluator, then connecting to an existing collection system will
317 be deemed suitable. In such case that the cost on a per lot basis
318 for providing a centralized sewerage system and the cost on a per
319 lot basis for connecting to an existing collection system are both
320 less than two hundred percent (200%) of the cost of an individual
321 on-site system technology recommended by the department or a
322 certified professional evaluator, then connecting to an existing
323 collection system will be deemed the suitable alternative. If a
324 centralized sewerage system or connecting to an existing
325 collection system has been deemed suitable, no individual on-site
326 units shall be approved for the subdivision.

327 (c) The department shall evaluate the area in which the
328 proposed subdivision is to be located near environmentally
329 sensitive waters. Environmentally sensitive waters include lakes,
330 reservoirs or other waters whose uses are recreational, shellfish
331 harvesting or public water supply as determined by the Commission
332 on Environmental Quality, or private water supply or other waters
333 as deemed by the department. A subdivision adjacent to or in
334 close proximity of these waters and which drain to these waters or
335 to a tributary of these waters shall provide a centralized
336 sewerage system or shall connect to an existing wastewater system.
337 For a subdivision in which both a centralized sewerage system and
338 connection to an existing collection system are not suitable due
339 to paragraph (b) of this subsection and that is adjacent to or in
340 close proximity of these waters and which drain to these waters or
341 to a tributary of these waters, the department may allow the use
342 of individual on-site treatment in accordance with Section 41-67-7

343 upon the creation of a decentralized wastewater management entity
344 to ensure proper operation and maintenance, including repair and
345 replacement of the individual on-site treatment systems.

346 * * *

347 (2) No suitability study or community sewerage system shall
348 be required for subdivisions designed, laid out, platted or
349 partially constructed before July 1, 1988, or for any subdivision
350 that was platted and recorded during the period from July 1, 1995
351 through June 30, 1996.

352 **SECTION 5.** Section 41-67-5, Mississippi Code of 1972, is
353 amended as follows:

354 41-67-5. (1) No owner, lessee or developer shall construct
355 or place any mobile, modular or permanently constructed residence,
356 building or facility, which may require the installation of an
357 individual on-site wastewater disposal system, without having
358 first submitted a notice of intent to the department. Upon
359 receipt of a notice of intent, the department shall provide the
360 owner, lessee or developer with complete information on individual
361 on-site wastewater disposal systems, including, but not limited
362 to, applicable rules and regulations regarding the design,
363 construction, installation, operation and maintenance of
364 individual on-site wastewater disposal systems and known
365 requirements of lending institutions for approval of the systems.

366 (2) No temporary water service connection shall be provided
367 to any mobile, modular or permanently constructed residence,
368 building or facility unless the owner, lessee or developer shows
369 proof of the submission of the notice of intent required by this
370 section.

371 (3) The department shall furnish to the county tax assessor
372 or collector, upon request, the name and address of the person
373 submitting a notice of intent and the section, township and range
374 of the lot or tract of land on which the individual on-site
375 wastewater disposal system will be installed.

376 **SECTION 6.** Section 41-67-6, Mississippi Code of 1972, is
377 amended as follows:

378 41-67-6. (1) Within five (5) working days following receipt
379 of the notice of intent and plot plan by an owner, lessee or
380 developer of any lot or tract of land, the department shall
381 conduct a soil and site evaluation, except in cases where a
382 certified professional evaluator provides services relating to the
383 design, construction or installation of an individual on-site
384 wastewater disposal system to comply with this chapter. Within
385 ten (10) additional working days, the department shall make
386 recommendations to the owner, lessee or developer of the type or
387 types of individual on-site wastewater disposal systems suitable
388 for installation on the lot or tract, unless there are conditions
389 requiring further investigation that are revealed in the initial
390 evaluation. In making recommendations on the type or types of
391 individual on-site wastewater disposal systems suitable for
392 installation on a lot or tract, personnel of the department shall
393 use best professional judgment based on rules and regulations
394 adopted by the board, considering the type or types of systems
395 which are installed and functioning on lots or tracts near the
396 subject lot or tract. * * * To the extent practicable, the
397 recommendations shall give the owner, lessee or developer maximum
398 flexibility and a maximum number of options consistent with the
399 federal Clean Water Act, consistent with maintaining the wastes on
400 the property of the generator * * *, and consistent with
401 protection of the public health. The system or systems
402 recommended shall be environmentally sound and cost-effective.
403 The department or a certified professional evaluator shall provide
404 complete information, including all applicable requirements and
405 regulations on all systems recommended. The owner, lessee or
406 developer shall have the right to choose among systems. The
407 department shall provide the owner, lessee or developer with a
408 form that specifies all types of individual on-site wastewater

409 disposal systems that are suitable for installation on the lot or
410 tract and lists all installers of those systems that are certified
411 by the department. Approval of the design, construction or
412 installation of an individual on-site wastewater disposal system
413 by the department is * * * required. Upon completion of
414 installation of the system, the department shall approve the
415 design, construction or installation of that system, as requested,
416 if the system is designed, constructed and installed, as the case
417 may be, in accordance with the rules and regulations of the
418 board. * * * Whenever a person requests approval of an individual
419 on-site wastewater disposal system and has met the requirements in
420 subsection (7), the department must approve or disapprove the
421 request within five (5) working days. If the department
422 disapproves the request, the department shall state in writing the
423 reasons for the disapproval. If the department does not respond
424 to the request within ten (10) calendar days, the request for
425 approval of the individual on-site wastewater disposal system
426 shall be deemed approved.

427 (2) Within thirty (30) days of receipt of a request for
428 determination of suitability of individual on-site wastewater
429 disposal systems in a subdivision, the department shall advise the
430 developer in writing either that all necessary information needed
431 for determination of suitability has been received or state the
432 additional information needed by the department for determination
433 of suitability.

434 (3) Whenever a developer requests a determination of
435 suitability of individual on-site wastewater disposal systems in a
436 subdivision, the department must make the determination within
437 forty-five (45) days after receipt of all necessary information
438 needed for the determination of suitability from the developer.
439 The department shall state in writing the reasons for its
440 determination.

441 (4) (a) The installer or certified professional evaluator
442 shall notify the department at least forty-eight (48) hours prior
443 to beginning construction of an individual on-site wastewater
444 disposal system and, at that time, schedule a time for inspection
445 of the system with the appropriate county department of health.

446 (b) An installer shall not cover his work with soil or
447 other surface material unless the installer has received
448 authorization to cover the system after an inspection by a county
449 department of health inspector.

450 (5) A person may not design, construct or install, or cause
451 to be designed, constructed or installed an individual on-site
452 wastewater disposal system that does not comply with this chapter
453 and rules and regulations of the board.

454 (6) * * * If any person or contractor fails to comply with
455 all requirements and regulations in the installation of the
456 system, the board, after due notice and hearing, may levy an
457 administrative fine not to exceed Ten Thousand Dollars
458 (\$10,000.00). Each wastewater system installed not in compliance
459 with this chapter or applicable rules and regulations of the board
460 shall be considered a separate offense.

461 (7) After construction or installation of the individual
462 on-site wastewater disposal system, the property owner or his
463 agent shall provide a final approval request containing the
464 following to the department:

465 (a) A signed affidavit from the installer or certified
466 evaluator and any additional required documentation that the
467 system was installed in compliance with all requirements,
468 regulations and permit conditions applicable to the system
469 installed; and

470 (b) For any system that contains an electric
471 operational component, a continuing maintenance contract signed by
472 the property owner and a certified maintenance provider.

473 **SECTION 7.** Section 41-67-7, Mississippi Code of 1972, is
474 amended as follows:

475 41-67-7. Individual on-site wastewater disposal systems
476 shall be considered acceptable on lots in areas or subdivisions
477 where prior to the sale of the lots, the following requirements
478 are met:

479 (1) Individual on-site wastewater disposal systems with
480 underground absorption fields shall be considered acceptable,
481 provided the following requirements are met:

482 (a) Sewers are not available or feasible;

483 (b) The existing disposal systems in the area are
484 functioning satisfactorily;

485 (c) Soil types, soil texture, seasonal water tables and
486 other limiting factors are satisfactory for underground
487 absorption; and

488 (d) Any private water supply is located at a higher
489 elevation or must be properly protected and at least fifty (50)
490 feet from the individual on-site wastewater disposal system and at
491 least one hundred (100) feet from the disposal field of the
492 system.

493 (2) Except for systems utilizing underground absorption,
494 alternative individual on-site wastewater disposal systems shall
495 be considered acceptable, provided the following requirements are
496 met:

497 (a) Sewers are not available or feasible; and

498 (b) The systems meet applicable water quality
499 requirements of the federal Clean Water Act and also requirements
500 of the board and department. * * *

501 * * *

502 **SECTION 8.** Section 41-67-9, Mississippi Code of 1972, is
503 amended as follows:

504 41-67-9. (1) Existing individual on-site wastewater
505 disposal systems shall be considered acceptable, provided the
506 following requirements are met:

507 (a) The lot is located in an area or subdivision where
508 individual on-site wastewater disposal systems are considered
509 acceptable under this chapter;

510 (b) The residence, building or facility has previously
511 been occupied for a period of time deemed by the department
512 necessary to determine the functioning capability of the
513 individual on-site wastewater disposal system;

514 (c) The system is functioning properly with no evidence
515 that any insufficiently treated effluent is or has been seeping to
516 the surface of the ground and any discharge of treated effluent is
517 confined within the boundaries of the property of the
518 generator * * *; and

519 (d) If a private water supply well is present, the well
520 should be located at a higher elevation than the disposal system
521 and is protected from surface contamination by a concrete slab of
522 a thickness of at least four (4) inches extending at least two (2)
523 feet in all directions from the well casing.

524 (2) If an existing residential individual on-site wastewater
525 disposal system is malfunctioning, the system should be replaced,
526 where possible, with a system meeting all requirements of this
527 chapter and rules and regulations of the board. If replacement of
528 the existing system is not possible, the existing system shall be
529 repaired to reduce the volume of effluent, to adequately treat the
530 effluent and to the greatest extent possible, to confine the
531 discharge to the property of the generator * * *. If repairs are
532 made to significantly upgrade the existing individual on-site
533 wastewater disposal system, the department shall approve the
534 system, if requested.

535 **SECTION 9.** Section 41-67-10, Mississippi Code of 1972, is
536 amended as follows:

537 41-67-10. Advanced treatment systems may be installed only
538 if they have been tested and are listed by a third-party
539 certifying program at the time of installation. Advanced
540 treatment systems shall be in compliance with standards for a
541 Class I system as defined by the most current revision of American
542 National Standards Institute/National Sanitation Foundation
543 (ANSI/NSF) International Standard Number 40, hereby incorporated
544 by reference. * * * An approved third-party certifying program
545 shall comply with the following provisions for systems which it
546 has certified to be installed in Mississippi:

547 (a) Be accredited by the American National Standards
548 Institute;

549 (b) Have established procedures which send
550 representatives to distributors in Mississippi on a recurring
551 basis to conduct evaluations to assure that distributors of
552 certified advanced treatment systems are providing proper
553 maintenance, have sufficient replacement parts available and are
554 maintaining service records;

555 (c) Notify the department of the results of monitoring
556 visits to manufacturers and distributors within sixty (60) days of
557 the conclusion of the monitoring; and

558 (d) Submit completion reports on testing and any other
559 information as the department may require for its review.

560 **SECTION 10.** Section 41-67-11, Mississippi Code of 1972, is
561 amended as follows:

562 41-67-11. (1) Temporary individual on-site wastewater
563 disposal systems may be approved in an area where individual
564 on-site wastewater disposal systems otherwise would not be
565 approved because of the availability or feasibility of connection
566 to a centralized sewerage system only after a contract has been
567 awarded or other definite commitments as are deemed sufficient to
568 the department are formalized for the construction of municipal or
569 community sewers that upon completion will adequately serve the

570 property. Temporary individual on-site wastewater disposal
571 systems shall only be approved when the municipal or community
572 sewers shall be completed and available for use within thirty-six
573 (36) months. The department may approve the installation of a
574 temporary system under these circumstances only if the system
575 shall comply with the requirements of Section 41-67-5(1) and
576 comply with all construction requirements of the board. The
577 temporary system may be installed only after the developer has
578 signed a written agreement with the centralized sewer provider
579 stating that the developer will connect to the centralized sewer
580 system when it becomes available, and the provider of the
581 centralized sewer system being constructed certifies that the
582 centralized sewer system will have adequate capacity to accept the
583 sewage to be produced by the temporary systems. The developer
584 shall install an internal sewage collection system from each lot
585 to the connection point to the central sewer system as he develops
586 the curbs, gutters and streets of the subdivision. Upon
587 completion of the sewer construction, all systems shall be
588 abandoned and all residences, buildings or facilities connected to
589 the sewer.

590 * * *

591 (2) The board may approve the installation of sewage holding
592 tanks in districts created under Sections 19-5-151 through
593 19-5-207 for the purpose of providing sewage services. The
594 district shall be required to maintain or provide for the
595 maintenance of those holding tanks. The board shall require that
596 residences be connected to a municipal or community sewage system
597 when that system is available * * *.

598 **SECTION 11.** Section 41-67-15, Mississippi Code of 1972, is
599 amended as follows:

600 41-67-15. Nothing in this chapter shall limit the authority
601 of a municipality or board of supervisors to adopt similar
602 ordinances which may be, in whole or in part, more restrictive

603 than this chapter, and in those cases the more restrictive
604 ordinances will govern. The department shall not enforce any
605 ordinances adopted by a municipality or board of supervisors.

606 **SECTION 12.** Section 41-67-25, Mississippi Code of 1972, is
607 amended as follows:

608 41-67-25. (1) A person may not operate as an installer of
609 individual on-site wastewater disposal systems * * * unless that
610 person is currently certified by the department. * * * A person
611 who installs an individual on-site wastewater disposal system on
612 his own property for his primary residence is not considered an
613 installer for purposes of this subsection.

614 (2) An installer of alternative systems or products must be
615 a factory-trained and authorized representative. The manufacturer
616 must furnish documentation to the department certifying the
617 satisfactory completion of factory training and the establishment
618 of the installer as an authorized manufacturer's representative.

619 (3) The board shall issue a certification to an installer if
620 the installer:

621 (a) Completes an application form that complies with
622 this chapter and rules adopted under this chapter;

623 (b) Satisfactorily completes the training program
624 provided by the department;

625 (c) Pays the annual certification fee; * * *

626 (d) Provides proof of having a valid general business
627 liability insurance policy in effect with liability limits of at
628 least Fifty Thousand Dollars (\$50,000.00) per occurrence and at
629 least One Hundred Thousand Dollars (\$100,000.00) in total
630 aggregate amount; and

631 (e) Provides proof of having a performance bond or
632 surety in effect with liability limits of at least Fifty Thousand
633 Dollars (\$50,000.00) per occurrence and at least One Hundred
634 Thousand Dollars (\$100,000.00) in total aggregate amount.

635 (4) Each installer shall furnish proof of certification to a
636 property owner, lessee, the owner's representative or occupant of
637 the property on which an individual on-site wastewater disposal
638 system is to be designed, constructed, repaired or installed by
639 that installer and to the department or its authorized
640 representative, if requested.

641 (5) The department shall provide for annual renewal of
642 certifications.

643 (6) (a) An installer's certification may be suspended or
644 revoked by the board after notice and hearing if the installer
645 violates this chapter or any rule or regulation adopted under this
646 chapter.

647 (b) The installer may appeal a suspension or revocation
648 under this section as provided by law.

649 (7) The department semiannually shall disseminate to the
650 public an official list of certified installers and provide to
651 county health departments a monthly update of the list.

652 (8) If any person operating in the state as an installer
653 without certification by the board, the board, after due notice
654 and opportunity for a hearing, may impose a monetary penalty not
655 to exceed Ten Thousand Dollars (\$10,000.00) for each violation.

656 **SECTION 13.** Section 41-67-27, Mississippi Code of 1972, is
657 amended as follows:

658 41-67-27. It is unlawful for a manufacturer of an individual
659 on-site wastewater disposal system or alternative treatment or
660 disposal components to operate a business in or to do business in
661 the State of Mississippi without holding a valid manufacturer's
662 registration issued by the department.

663 **SECTION 14.** Section 41-67-29, Mississippi Code of 1972, is
664 amended as follows:

665 41-67-29. Any person * * * aggrieved by any final decision
666 of the department may appeal that final decision to the chancery
667 court of the county of the situs in whole or in part of the

668 subject matter. The appellant shall give a cost bond with
669 sufficient sureties, payable to the state in a sum to be fixed by
670 the board or the court and to be filed with and approved by the
671 clerk of the court. The aggrieved party may, within thirty (30)
672 days following a final decision of the department, petition the
673 chancery court for an appeal with supersedeas and the chancellor
674 shall grant a hearing on the petition. Upon good cause shown the
675 chancellor may grant the appeal with supersedeas. The appellant
676 shall be required to post a bond with sufficient sureties
677 according to law in an amount to be determined by the chancellor.
678 The chancery court shall always be deemed open for hearing of
679 appeals and the chancellor may hear the appeal in termtime or in
680 vacation at any place in his district. The appeal shall have
681 precedence over all civil cases, except election contests. The
682 chancery court shall review all questions of law and of fact and
683 may enter a final order or remand the matter to the board for
684 appropriate action as may be indicated or necessary under the
685 circumstances. Appeals may be taken from the chancery court to
686 the Supreme Court in the manner as now required by law, but if a
687 supersedeas is desired by the party appealing to the chancery
688 court, that party may apply therefor to the chancellor, who shall
689 award a writ of supersedeas, without additional bond, if in the
690 chancellor's judgment material damage is not likely to result. If
691 material damage is likely to result, the chancellor shall require
692 a supersedeas bond as deemed proper, which shall be liable to the
693 state for any damage.

694 **SECTION 15.** (1) The department shall adopt and use
695 procedures for conducting reviews requested by any person
696 aggrieved by the disapproval or requirements for an on-site
697 wastewater disposal system as provided by the department in
698 written form under Section 41-67-6. The procedures shall include
699 that the person may request review by submitting a written request
700 of review to the Director of the Office of Environmental Health.

701 The request for review shall identify the matter contested and
702 state the person's name, mailing address and home and daytime
703 phone numbers. Within ten (10) business days of the receipt of
704 the request for review, the department shall issue in writing a
705 ruling and determination to the person and if any corrections are
706 necessary to any form previously issued by the department, then
707 new forms shall be submitted to the person.

708 (2) Any person aggrieved by the ruling issued by the
709 Director of the Office of Environmental Health may apply for a
710 hearing. Any hearing shall be conducted by a hearing officer
711 designated by the department. At the hearing, the hearing officer
712 and any person affected by the proposal being reviewed may conduct
713 reasonable questioning of persons who make relevant factual
714 allegations concerning the proposal. The hearing officer shall
715 require that all persons be sworn before they may offer any
716 testimony at the hearing, and the hearing officer is authorized to
717 administer oaths. Any person so choosing may be represented by
718 counsel at the hearing. A record of the hearing shall be made,
719 which shall consist of a transcript of all testimony received, all
720 documents and other material introduced by any interested person,
721 the staff report and recommendation, and any other material as the
722 hearing officer considers relevant, including his own
723 recommendation. He shall make a recommendation within a
724 reasonable period of time after the hearing is closed and after he
725 has had an opportunity to review, study and analyze the evidence
726 presented during the hearing. The completed record shall be
727 certified to the State Health Officer, who shall consider only the
728 record in making his decision, and shall not consider any evidence
729 or material which is not included. All final decisions regarding
730 the disapproval or requirements for an on-site wastewater disposal
731 system shall be made by the State Health Officer. The State
732 Health Officer shall make his written findings and issue his order
733 after reviewing the record. The findings and decision of the

734 State Health Officer shall not be deferred to any later date, and
735 any deferral shall result in an automatic order of disapproval.

736 **SECTION 16.** (1) A person may not operate as a certified
737 maintenance provider in this state unless that person is currently
738 certified by the department.

739 (2) A certified maintenance provider for mechanical or
740 proprietary systems must be a factory trained and authorized
741 representative. The manufacturer must furnish documentation to
742 the department certifying the satisfactory completion of factory
743 training and the establishment of the maintenance provider as an
744 authorized manufacturer's representative.

745 (3) The department shall issue a certification to a
746 maintenance provider if the maintenance provider:

747 (a) Completes an application form that complies with
748 this chapter and rules adopted under this chapter;

749 (b) Satisfactorily completes the certified maintenance
750 provider training program provided by the department or currently
751 holds a certified installer's certificate; and

752 (c) Pays the annual certification fee.

753 (4) Provides proof of having a valid general business
754 liability insurance policy in effect with liability limits of at
755 least Fifty Thousand Dollars (\$50,000.00) per occurrence and at
756 least One Hundred Thousand Dollars (\$100,000.00) in total
757 aggregate amount.

758 (5) Provides proof of having a performance bond or surety in
759 effect with liability limits of at least Fifty Thousand Dollars
760 (\$50,000.00) per occurrence and at least One Hundred Thousand
761 Dollars (\$100,000.00) in total aggregate amount.

762 (6) Each certified maintenance provider shall furnish proof
763 of certification to an individual prior to entering a contract
764 with that individual for the continuing maintenance of an
765 individual on-site wastewater disposal system.

766 (7) The department shall provide for annual renewal of
767 certifications.

768 (8) The department semiannually shall disseminate to the
769 public an official list of certified maintenance providers and
770 provide to county health departments a monthly update of the list.

771 (9) If any person operates in the state as a certified
772 maintenance provider without certification by the board, the
773 board, after due notice and opportunity for a hearing, may impose
774 a monetary penalty not to exceed Ten Thousand Dollars (\$10,000.00)
775 for each violation.

776 **SECTION 17.** (1) A person may not be engaged in the business
777 of removing and disposing of the sludge and liquid waste (septage)
778 from individual on-site wastewater disposal systems in this state
779 unless that person has a valid license issued by the department.

780 (2) The department shall issue a license to a pumper if the
781 pumper:

782 (a) Completes an application form that complies with
783 this chapter and rules adopted under this chapter;

784 (b) Satisfactorily complies with the requirements of
785 his/her pumping and hauling equipment;

786 (c) Provides documentation of a disposal site approved
787 by the Department of Environmental Quality, Office of Pollution
788 Control;

789 (d) Pays the annual license fee;

790 (e) Provides proof of having a valid general business
791 liability insurance policy in effect with liability limits of at
792 least Fifty Thousand Dollars (\$50,000.00) per occurrence and at
793 least One Hundred Thousand Dollars (\$100,000.00) in total
794 aggregate amount; and

795 (f) Provides proof of having a performance bond or
796 surety in effect with liability limits of at least Fifty Thousand
797 Dollars (\$50,000.00) per occurrence and at least One Hundred
798 Thousand Dollars (\$100,000.00) in total aggregate amount.

799 (3) Each pumper shall furnish proof of licensure to an
800 individual prior to entering a contract with that individual for
801 the removing and disposing of the sludge and liquid waste
802 (septage) from an individual on-site wastewater disposal system.

803 (4) The department semiannually shall disseminate to the
804 public an official list of licensed pumpers and provide to county
805 health departments a monthly update of the list.

806 (5) If any person operates in the state as a licensed pumper
807 without a license by the board, the board, after due notice and
808 opportunity for a hearing, may impose a monetary penalty not to
809 exceed Ten Thousand Dollars (\$10,000.00) for each violation.

810 **SECTION 18.** (1) A person may not operate as a certified
811 professional evaluator in this state unless that person is
812 currently certified by the department.

813 (2) A person must meet one (1) of the following
814 requirements, in addition to the additional requirements set forth
815 through this law and rules and regulations of the board, in order
816 to be eligible to become a certified professional evaluator:

817 (a) Be a professional engineer registered in the State
818 of Mississippi;

819 (b) Be a professional geologist registered in the State
820 of Mississippi;

821 (c) Be a professional soil classifier licensed in the
822 State of Mississippi; or

823 (d) Be a person who shall possess a demonstrable,
824 adequate and appropriate record of professional experience and/or
825 training as determined by the department.

826 (3) The department shall issue a certification to a
827 certified professional evaluator if the certified professional
828 evaluator:

829 (a) Completes an application form that complies with
830 this chapter and rules adopted under this chapter;

831 (b) Satisfactorily completes the certified professional
832 evaluator training program provided by the department; and

833 (c) Pays the annual certification fee.

834 (4) Provides proof of having an errors and omissions policy
835 or surety in effect with liability limits of at least Fifty
836 Thousand Dollars (\$50,000.00) per occurrence and at least One
837 Hundred Thousand Dollars (\$100,000.00) in total aggregate amount.

838 (5) Each certified professional evaluator shall furnish
839 proof of certification to a property owner or the owner's
840 representative of the property prior to performing a site
841 evaluation of the property on which an individual on-site
842 wastewater disposal system is to be designed, constructed,
843 repaired or installed by the certified professional evaluator and
844 to the department or its authorized representative, if requested.

845 (6) The department shall provide for annual renewal of
846 certifications.

847 (7) The department semiannually shall disseminate to the
848 public an official list of certified professional evaluators and
849 provide to county health departments a monthly update of the list.

850 (8) If any person operates in the state as a certified
851 professional evaluator without certification by the board, the
852 board, after due notice and opportunity for a hearing, may impose
853 a monetary penalty not to exceed Ten Thousand Dollars (\$10,000.00)
854 for each violation.

855 **SECTION 19.** Section 41-67-8, Mississippi Code of 1972, which
856 provides for the duties of the Permit Board when wastewater is
857 discharged off-site, is repealed.

858 **SECTION 20.** Section 41-67-16, Mississippi Code of 1972,
859 which required a study of all individual on-site wastewater
860 disposal systems, is repealed.

861 **SECTION 21.** Section 41-67-31, Mississippi Code of 1972,
862 which provides for the repeal of the "Mississippi Individual
863 On-Site Wastewater Disposal System Law," is repealed.

864 **SECTION 22.** This act shall take effect and be in force from
865 and after its passage.