

By: Senator(s) Moffatt

To: Environment Prot, Cons
and Water Res; Public Health
and WelfareSENATE BILL NO. 2538
(As Passed the Senate)

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 PROVIDE THAT A BOARD OF
 23 SUPERVISORS MAY NOT RESTRICT OR PROHIBIT THE USE OF ANY TYPE OF
 24 INDIVIDUAL ON-SITE WASTEWATER DISPOSAL SYSTEM THAT THE DEPARTMENT
 25 RECOMMENDS AS SUITABLE FOR A TRACT OF LAND; TO AMEND SECTION
 26 41-67-25, MISSISSIPPI CODE OF 1972, TO REQUIRE PERFORMANCE BONDS
 27 FOR INSTALLERS AND TO PROVIDE A PENALTY FOR INSTALLERS WHO OPERATE
 28 WITHOUT CERTIFICATION FROM THE BOARD OF HEALTH; TO AMEND SECTION
 29 41-67-27, MISSISSIPPI CODE OF 1972, TO CLARIFY REGISTRATION
 30 REQUIREMENTS FOR MANUFACTURERS OF INDIVIDUAL ON-SITE WASTEWATER
 31 DISPOSAL SYSTEMS; TO AMEND SECTION 41-67-29, MISSISSIPPI CODE OF
 32 1972, TO REVISE THE APPELLATE PROCEDURE FOR PERSONS AGGRIEVED BY
 33 DECISIONS OF THE DEPARTMENT OF HEALTH; TO CONFORM APPEALS
 34 PROCEDURE TO STANDARD APPELLATE PROCESS OF THE DEPARTMENT OF
 35 HEALTH; TO AMEND SECTIONS 41-67-5, 41-67-7, 41-67-9 AND 41-67-10,
 36 MISSISSIPPI CODE OF 1972, TO CONFORM; TO PROVIDE FOR THE
 37 CERTIFICATION OF MAINTENANCE PROVIDERS; TO PROVIDE FOR THE
 38 LICENSING OF PERSONS REMOVING AND DISPOSING OF SLUDGE FROM
 39 INDIVIDUAL ON-SITE WASTEWATER DISPOSAL SYSTEMS; TO REQUIRE
 40 CERTIFICATION OF CERTIFIED PROFESSIONAL EVALUATORS; TO ESTABLISH
 41 REQUIREMENTS FOR CERTIFIED PROFESSIONAL EVALUATORS; TO AMEND
 42 SECTIONS 19-5-173 AND 19-5-177, MISSISSIPPI CODE OF 1972, TO
 43 PROVIDE THAT WASTEWATER DISPOSAL DISTRICTS SHALL PAY FOR THE
 44 EXPENSE OF CONNECTING TO A CENTRALIZED SYSTEM IF THE DISTRICT
 45 REQUIRES AN OWNER OF AN INDIVIDUAL ON-SITE WASTEWATER DISPOSAL
 46 SYSTEM TO CONNECT TO THE CENTRALIZED SYSTEM; TO PROHIBIT THE
 47 DISTRICT FROM CHARGING A FEE FOR THE MAINTENANCE OR INSPECTION OF
 48 AN INDIVIDUAL ON-SITE WASTEWATER DISPOSAL SYSTEM; TO REPEAL
 49 SECTION 41-67-8, MISSISSIPPI CODE OF 1972, WHICH PROVIDES FOR
 50 DUTIES OF THE PERMIT BOARD WHEN WASTE IS DISCHARGED OFF-SITE; TO
 51 REPEAL SECTION 41-67-16, MISSISSIPPI CODE OF 1972, WHICH REQUIRED
 52 A STUDY OF ALL INDIVIDUAL ON-SITE WASTEWATER DISPOSAL SYSTEMS; TO

53 REPEAL SECTION 41-67-31, MISSISSIPPI CODE OF 1972, WHICH PROVIDES
54 FOR THE REPEAL OF THE "MISSISSIPPI INDIVIDUAL ON-SITE WASTEWATER
55 DISPOSAL SYSTEM LAW"; AND FOR RELATED PURPOSES.

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

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

59 41-67-1. (1) This chapter shall be known and may be cited
60 as the "Mississippi Individual On-Site Wastewater Disposal System
61 Law."

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

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

87 41-67-2. For purposes of this chapter, the following words
88 shall have the meanings ascribed herein unless the context clearly
89 indicates otherwise:

90 (a) "Advanced treatment system" means individual
91 on-site wastewater treatment systems that comply with Section
92 41-67-10.

93 * * *

94 (b) "Alternative system" means any on-site sewage
95 treatment and disposal system used in lieu of a conventional
96 system.

97 (c) "Board" means the Mississippi State Board of
98 Health.

99 (d) "Centralized sewerage system" means pipelines or
100 conduits, pumping stations, force mains, and all other
101 construction, devices and appliances appurtenant thereto, used for
102 the collection and conveyance of sewage to a treatment works or
103 point of ultimate disposal other than an individual on-site
104 wastewater disposal system.

105 (e) "Certified maintenance provider" means any person
106 or business entity that holds a written certification issued by
107 the department allowing the person to provide maintenance services
108 associated with approved on-site wastewater treatment and disposal
109 systems.

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

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

115 (h) "Department" means the Mississippi State Department
116 of Health.

117 (i) "Generator" means any person whose act or process
118 produces sewage or other material suitable for disposal in an
119 individual on-site wastewater disposal system.

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

127 (k) "Installer" means any person who has met the
128 requirements of Section 41-67-25.

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

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

143 * * *

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

146 (o) "Subdivision" means any tract or combination of
147 adjacent tracts of land that is subdivided *into ten (10)* or
148 more * * * tracts, sites or parcels for the purpose of commercial
149 or residential development.

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

152 41-67-3. (1) The State Board of Health shall have the
153 following duties and responsibilities:

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

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

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

173 (d) To suspend or revoke certifications issued to
174 persons engaging in the business of the design, construction or
175 installation of individual on-site wastewater disposal systems or
176 persons engaging in the removal and disposal of the sludge and
177 liquid waste from those systems, when it is determined the person
178 has violated this chapter or applicable rules and
179 regulations; * * *

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

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

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

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

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

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

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

223 (d) Certification of maintenance providers; and

224 (e) Certification of certified professional evaluators.

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

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

238 (b) Application review;

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

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

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

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

247 Any system proposed for authorization in accordance with
248 performance standards must be designed and certified by a
249 professional engineer registered in the State of Mississippi who

250 is a certified professional evaluator and must be authorized by
251 the board before installation. * * *

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

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

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

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

278 41-67-4. (1) In all subdivisions where the developer
279 proposes the use of individual on-site wastewater disposal systems
280 as opposed to centralized sewerage systems and upon the submission
281 by the developer of a * * * design and feasibility study prepared
282 by a professional engineer registered in the State of Mississippi,

283 the board shall make a determination as to the suitability of
284 individual on-site wastewater disposal systems as compared to the
285 feasibility of establishing a centralized sewerage system. In
286 determining whether the centralized sewerage system is feasible,
287 the board shall consider, at a minimum, the following:

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

302 (b) The initial capital costs of providing a
303 centralized sewerage system and the initial capital costs of
304 connecting to an existing collection system shall each be compared
305 with the cost of providing appropriate individual on-site
306 treatment for each lot. If the cost on a per lot basis for
307 providing a centralized sewerage system is not more than one
308 hundred twenty-five percent (125%) of the cost of an individual
309 on-site system technology recommended by the department or a
310 certified professional evaluator, then a centralized sewerage
311 system will be deemed feasible. If the cost on a per lot basis
312 for connecting to an existing collection system is not more than
313 one hundred twenty-five percent (125%) of the cost of an
314 individual on-site system technology recommended by the department
315 or a certified professional evaluator, then connecting to an

316 existing collection system will be deemed feasible. In such case
317 that the cost on a per lot basis for providing a centralized
318 sewerage system and the cost on a per lot basis for connecting to
319 an existing collection system are both not more than one hundred
320 twenty-five percent (125%) of the cost of an individual on-site
321 system technology recommended by the department or a certified
322 professional evaluator, then connecting to an existing collection
323 system will be deemed the feasible alternative. If a centralized
324 sewerage system or connecting to an existing collection system has
325 been deemed feasible, no individual on-site units shall be
326 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. The Commission on Environmental
334 Quality shall adopt regulations specifying objective criteria to
335 determine what constitutes environmentally sensitive waters. A
336 subdivision adjacent to or in close proximity of these waters and
337 which drain to these waters or to a tributary of these waters
338 shall provide a centralized sewerage system or shall connect to an
339 existing wastewater system. For a subdivision in which both a
340 centralized sewerage system and connection to an existing
341 collection system are not feasible due to paragraph (b) of this
342 subsection and that is adjacent to or in close proximity of these
343 waters and which drain to these waters or to a tributary of these
344 waters, the department may allow the use of individual on-site
345 treatment in accordance with Section 41-67-7 upon the creation of
346 a decentralized wastewater management entity to ensure proper
347 operation and maintenance, including repair and replacement of the
348 individual on-site treatment systems.

349 * * *

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

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

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

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

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

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

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

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

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

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

444 (4) (a) The installer or certified professional evaluator
445 shall notify the department prior to beginning construction of an
446 individual on-site wastewater disposal system and, at that time,

447 schedule a time for inspection of the system with the appropriate
448 county department of health.

449 (b) An installer shall not cover his work with soil or
450 other surface material unless the installer has received
451 authorization to cover the system after an inspection by a county
452 department of health inspector or a certified professional
453 evaluator.

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

458 (6) * * * If any person or contractor fails to comply with
459 all requirements and regulations in the installation of the
460 system, the board, after due notice and hearing, may levy an
461 administrative fine not to exceed Ten Thousand Dollars
462 (\$10,000.00). Each wastewater system installed not in compliance
463 with this chapter or applicable rules and regulations of the board
464 shall be considered a separate offense.

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

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

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

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

479 41-67-7. Individual on-site wastewater disposal systems
480 shall be considered acceptable on lots in areas or subdivisions
481 where prior to the sale of the lots, the following requirements
482 are met:

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

486 (a) Sewers are not available or feasible;

487 (b) The existing disposal systems in the area are
488 functioning satisfactorily;

489 (c) Soil types, soil texture, seasonal water tables and
490 other limiting factors are satisfactory for underground
491 absorption; and

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

497 (2) Except for systems utilizing underground absorption,
498 alternative individual on-site wastewater disposal systems shall
499 be considered acceptable, provided the following requirements are
500 met:

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

502 (b) The systems meet applicable water quality
503 requirements of the federal Clean Water Act and also requirements
504 of the board and department. * * *

505 * * *

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

508 41-67-9. (1) Existing individual on-site wastewater
509 disposal systems shall be considered acceptable, provided the
510 following requirements are met:

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

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

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

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

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

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

541 41-67-10. Advanced treatment systems may be installed only
542 if they have been tested and are listed by a third-party
543 certifying program at the time of installation. Advanced

544 treatment systems shall be in compliance with standards for a
545 Class I system as defined by the most current revision of American
546 National Standards Institute/National Sanitation Foundation
547 (ANSI/NSF) International Standard Number 40, hereby incorporated
548 by reference. * * * An approved third-party certifying program
549 shall comply with the following provisions for systems which it
550 has certified to be installed in Mississippi:

551 (a) Be accredited by the American National Standards
552 Institute;

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

559 (c) Notify the department of the results of monitoring
560 visits to manufacturers and distributors within sixty (60) days of
561 the conclusion of the monitoring; and

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

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

566 41-67-11. (1) Temporary individual on-site wastewater
567 disposal systems may be approved in an area where individual
568 on-site wastewater disposal systems otherwise would not be
569 approved because of the availability or feasibility of connection
570 to a centralized sewerage system only after a contract has been
571 awarded or other definite commitments as are deemed sufficient to
572 the department are formalized for the construction of municipal or
573 community sewers that upon completion will adequately serve the
574 property. Temporary individual on-site wastewater disposal
575 systems shall only be approved when the municipal or community
576 sewers shall be completed and available for use within thirty-six

577 (36) months. The department may approve the installation of a
578 temporary system under these circumstances only if the system
579 shall comply with the requirements of Section 41-67-5(1) and
580 comply with all construction requirements of the board. The
581 temporary system may be installed only after the developer has
582 signed a written agreement with the centralized sewer provider
583 stating that the developer will connect to the centralized sewer
584 system when it becomes available, and the provider of the
585 centralized sewer system being constructed certifies that the
586 centralized sewer system will have adequate capacity to accept the
587 sewage to be produced by the temporary systems. The developer
588 shall install an internal sewage collection system from each lot
589 to the connection point to the central sewer system as he develops
590 the curbs, gutters and streets of the subdivision. Upon
591 completion of the sewer construction, all systems shall be
592 abandoned and all residences, buildings or facilities connected to
593 the sewer.

594 * * *

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

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

604 41-67-15. (1) Nothing in this chapter shall limit the
605 authority of a municipality or board of supervisors to adopt
606 similar ordinances which may be, in whole or in part, more
607 restrictive than this chapter, and in those cases the more
608 restrictive ordinances will govern, except as provided in
609 subsection (2).

610 (2) (a) If a centralized sewerage system is not available,
611 a board of supervisors shall not prohibit or restrict the use of
612 any type of individual on-site wastewater disposal systems
613 recommended by the department as suitable for that tract of land.

614 (b) The board of supervisors shall not charge a fee for
615 the maintenance or inspection of an individual on-site wastewater
616 disposal system.

617 (c) If the board of supervisors requires an owner of an
618 individual on-site wastewater disposal system to connect to a
619 centralized sewerage system, the board of supervisors shall pay
620 for the connection to the centralized system.

621 (3) The department shall not enforce any ordinance adopted
622 by a municipality or board of supervisors.

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

625 41-67-25. (1) A person may not operate as an installer of
626 individual on-site wastewater disposal systems * * * unless that
627 person is currently certified by the department. * * * A person
628 who installs an individual on-site wastewater disposal system on
629 his own property for his primary residence is not considered an
630 installer for purposes of this subsection.

631 (2) An installer of alternative systems or products must be
632 a factory-trained and authorized representative. The manufacturer
633 must furnish documentation to the department certifying the
634 satisfactory completion of factory training and the establishment
635 of the installer as an authorized manufacturer's representative.

636 (3) The board shall issue a certification to an installer if
637 the installer:

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

640 (b) Satisfactorily completes the training program
641 provided by the department;

642 (c) Pays the annual certification fee; and

643 (d) Provides proof of having a valid general business
644 liability insurance policy in effect with liability limits of at
645 least Fifty Thousand Dollars (\$50,000.00) per occurrence and at
646 least One Hundred Thousand Dollars (\$100,000.00) in total
647 aggregate amount that includes coverage for product and completed
648 work.

649 (4) Each installer shall furnish proof of certification to a
650 property owner, lessee, the owner's representative or occupant of
651 the property on which an individual on-site wastewater disposal
652 system is to be designed, constructed, repaired or installed by
653 that installer and to the department or its authorized
654 representative, if requested.

655 (5) The department shall provide for annual renewal of
656 certifications.

657 (6) (a) An installer's certification may be suspended or
658 revoked by the board after notice and hearing if the installer
659 violates this chapter or any rule or regulation adopted under this
660 chapter.

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

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

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

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

672 41-67-27. It is unlawful for a manufacturer of an individual
673 on-site wastewater disposal system, advanced treatment system, or
674 alternate treatment system to operate a business in or to do

675 business in the State of Mississippi without holding a valid
676 manufacturer's registration issued by the department.

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

679 41-67-29. Any person * * * aggrieved by any final decision
680 of the department may appeal that final decision to the chancery
681 court of the county of the situs in whole or in part of the
682 subject matter. The appellant shall give a cost bond with
683 sufficient sureties, payable to the state in a sum to be fixed by
684 the board or the court and to be filed with and approved by the
685 clerk of the court. The aggrieved party may, within thirty (30)
686 days following a final decision of the department, petition the
687 chancery court for an appeal with supersedeas and the chancellor
688 shall grant a hearing on the petition. Upon good cause shown the
689 chancellor may grant the appeal with supersedeas. The appellant
690 shall be required to post a bond with sufficient sureties
691 according to law in an amount to be determined by the chancellor.
692 The chancery court shall always be deemed open for hearing of
693 appeals and the chancellor may hear the appeal in termtime or in
694 vacation at any place in his district. The appeal shall have
695 precedence over all civil cases, except election contests. The
696 chancery court shall review all questions of law and of fact and
697 may enter a final order or remand the matter to the board for
698 appropriate action as may be indicated or necessary under the
699 circumstances. Appeals may be taken from the chancery court to
700 the Supreme Court in the manner as now required by law, but if a
701 supersedeas is desired by the party appealing to the chancery
702 court, that party may apply therefor to the chancellor, who shall
703 award a writ of supersedeas, without additional bond, if in the
704 chancellor's judgment material damage is not likely to result. If
705 material damage is likely to result, the chancellor shall require
706 a supersedeas bond as deemed proper, which shall be liable to the
707 state for any damage.

708 SECTION 15. (1) The department shall adopt and use
709 procedures for conducting reviews requested by any person
710 aggrieved by the disapproval or requirements for an on-site
711 wastewater disposal system as provided by the department in
712 written form under Section 41-67-6. The procedures shall include
713 that the person may request review by submitting a written request
714 of review to the Director of the Office of Environmental Health.
715 The request for review shall identify the matter contested and
716 state the person's name, mailing address and home and daytime
717 phone numbers. Within ten (10) business days of the receipt of
718 the request for review, the department shall issue in writing a
719 ruling and determination to the person and if any corrections are
720 necessary to any form previously issued by the department, then
721 new forms shall be submitted to the person.

722 (2) Any person aggrieved by the ruling issued by the
723 Director of the Office of Environmental Health may apply for a
724 hearing. Any hearing shall be conducted by a hearing officer
725 designated by the department. At the hearing, the hearing officer
726 and any person affected by the proposal being reviewed may conduct
727 reasonable questioning of persons who make relevant factual
728 allegations concerning the proposal. The hearing officer shall
729 require that all persons be sworn before they may offer any
730 testimony at the hearing, and the hearing officer is authorized to
731 administer oaths. Any person so choosing may be represented by
732 counsel at the hearing. A record of the hearing shall be made,
733 which shall consist of a transcript of all testimony received, all
734 documents and other material introduced by any interested person,
735 the staff report and recommendation, and any other material as the
736 hearing officer considers relevant, including his own
737 recommendation. He shall make a recommendation within a
738 reasonable period of time after the hearing is closed and after he
739 has had an opportunity to review, study and analyze the evidence
740 presented during the hearing. The completed record shall be

741 certified to the State Health Officer, who shall consider only the
742 record in making his decision, and shall not consider any evidence
743 or material which is not included. All final decisions regarding
744 the disapproval or requirements for an on-site wastewater disposal
745 system shall be made by the State Health Officer. The State
746 Health Officer shall make his written findings and issue his order
747 after reviewing the record. The findings and decision of the
748 State Health Officer shall not be deferred to any later date, and
749 any deferral shall result in an automatic order of disapproval.

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

753 (2) A certified maintenance provider for mechanical or
754 proprietary systems must be a factory trained and authorized
755 representative. The manufacturer must furnish documentation to
756 the department certifying the satisfactory completion of factory
757 training and the establishment of the maintenance provider as an
758 authorized manufacturer's representative.

759 (3) The department shall issue a certification to a
760 maintenance provider if the maintenance provider:

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

763 (b) Satisfactorily completes the certified maintenance
764 provider training program provided by the department or currently
765 holds a certified installer's certificate;

766 (c) Pays the annual certification fee; and

767 (d) Provides proof of having a valid general business
768 liability insurance policy in effect with liability limits of at
769 least Fifty Thousand Dollars (\$50,000.00) per occurrence and at
770 least One Hundred Thousand Dollars (\$100,000.00) in total
771 aggregate amount that includes coverage for product and completed
772 work.

773 (4) Each certified maintenance provider shall furnish proof
774 of certification to an individual prior to entering a contract
775 with that individual for the continuing maintenance of an
776 individual on-site wastewater disposal system.

777 (5) The department shall provide for annual renewal of
778 certifications.

779 (6) The department semiannually shall disseminate to the
780 public an official list of certified maintenance providers and
781 provide to county health departments a monthly update of the list.

782 (7) If any person operates in the state as a certified
783 maintenance provider without certification by the board, the
784 board, after due notice and opportunity for a hearing, may impose
785 a monetary penalty not to exceed Ten Thousand Dollars (\$10,000.00)
786 for each violation.

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

791 (2) The department shall issue a license to a pumper if the
792 pumper:

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

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

797 (c) Provides documentation of a disposal site approved
798 by the Department of Environmental Quality, Office of Pollution
799 Control;

800 (d) Pays the annual license fee; and

801 (e) Provides proof of having a valid general business
802 liability insurance policy in effect with liability limits of at
803 least Fifty Thousand Dollars (\$50,000.00) per occurrence and at
804 least One Hundred Thousand Dollars (\$100,000.00) in total

805 aggregate amount that includes coverage for product and completed
806 work.

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

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

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

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

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

825 (a) Be a professional engineer registered in the State
826 of Mississippi;

827 (b) Be a professional geologist registered in the State
828 of Mississippi;

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

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

834 (3) The department shall issue a certification to a
835 certified professional evaluator if the certified professional
836 evaluator:

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

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

841 (c) Pays the annual certification fee.

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

846 (5) Each certified professional evaluator shall furnish
847 proof of certification to a property owner or the owner's
848 representative of the property prior to performing a site
849 evaluation of the property on which an individual on-site
850 wastewater disposal system is to be designed, constructed,
851 repaired or installed by the certified professional evaluator and
852 to the department or its authorized representative, if requested.

853 (6) The department shall provide for annual renewal of
854 certifications.

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

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

863 **SECTION 19.** Section 19-5-173, Mississippi Code of 1972, is
864 amended as follows:

865 19-5-173. The board of commissioners shall have the power to
866 make regulations to secure the general health of those residing in
867 the district; to prevent, remove and abate nuisances; to regulate
868 or prohibit the construction of privy-vaults and cesspools, and to
869 regulate or suppress those already constructed; and to compel and

870 regulate the connection of all property with sewers. If the board
871 of commissioners requires an owner of an individual on-site
872 wastewater disposal system to connect to a sewer system, the board
873 shall pay for the connection to the sewer system. The board shall
874 not charge a fee for the maintenance or inspection of an
875 individual on-site wastewater disposal system.

876 **SECTION 20.** Section 19-5-177, Mississippi Code of 1972, is
877 amended as follows:

878 19-5-177. (1) Any district created under Sections 19-5-151
879 through 19-5-207, acting by and through the board of commissioners
880 of such district as its governing authority, shall have the
881 following, among other, powers:

882 (a) To sue and be sued;

883 (b) To acquire by purchase, gift, devise and lease or
884 any other mode of acquisition, other than by eminent domain, hold
885 and dispose of real and personal property of every kind within or
886 without the district;

887 (c) To make and enter into contracts, conveyances,
888 mortgages, deeds of trust, bonds, leases or contracts for
889 financial advisory services;

890 (d) To incur debts, to borrow money, to issue
891 negotiable bonds, and to provide for the rights of the holders
892 thereof;

893 (e) To fix, maintain, collect and revise rates and
894 charges for services rendered by or through the facilities of such
895 district, which rates and charges shall not be subject to review
896 or regulation by the Mississippi Public Service Commission except
897 in those instances where a city operating similar services would
898 be subject to regulation and review; however, the district may
899 furnish services, including connection to the facilities of the
900 district, free of charge to the county or any agency or department
901 of the county and to volunteer fire departments located within the
902 service area of the district. The district shall obtain a

903 certificate of convenience and necessity from the Mississippi
904 Public Service Commission for operating of water and/or sewer
905 systems;

906 (f) To pledge all or any part of its revenues to the
907 payment of its obligations;

908 (g) To make such covenants in connection with the
909 issuance of bonds or to secure the payment of bonds that a private
910 business corporation can make under the general laws of the state;

911 (h) To use any right-of-way, public right-of-way,
912 easement, or other similar property or property rights necessary
913 or convenient in connection with the acquisition, improvement,
914 operation or maintenance of the facilities of such district held
915 by the state or any political subdivision thereof; however, the
916 governing body of such political subdivision shall consent to such
917 use;

918 (i) To enter into agreements with state and federal
919 agencies for loans, grants, grants-in-aid, and other forms of
920 assistance including, but not limited to, participation in the
921 sale and purchase of bonds;

922 (j) To acquire by purchase any existing works and
923 facilities providing services for which it was created, and any
924 lands, rights, easements, franchises and other property, real and
925 personal necessary to the completion and operation of such system
926 upon such terms and conditions as may be agreed upon, and if
927 necessary as part of the purchase price to assume the payment of
928 outstanding notes, bonds or other obligations upon such system;

929 (k) To extend its services to areas beyond but within
930 one (1) mile of the boundaries of such district; however, no such
931 extension shall be made to areas already occupied by another
932 corporate agency rendering the same service so long as such
933 corporate agency desires to continue to serve such areas. Areas
934 outside of the district desiring to be served which are beyond the

935 one (1) mile limit must be brought into the district by annexation
936 proceedings;

937 (l) To be deemed to have the same status as counties
938 and municipalities with respect to payment of sales taxes on
939 purchases made by such districts;

940 (m) To borrow funds for interim financing subject to
941 receipt of funds as outlined in Section 19-5-181;

942 (n) To provide group life insurance coverage for all or
943 specified groups of employees of the district and group
944 hospitalization benefits for those employees and their dependents,
945 and to pay the total cost of these benefits. For purposes of this
946 paragraph, the term "employees" does not include any person who is
947 a commissioner of a district created under Sections 19-5-151
948 through 19-5-207, and such commissioners are not eligible to
949 receive any insurance coverage or benefits made available to
950 district employees under this paragraph.

951 (2) Any district which is incorporated under Sections
952 19-5-151 through 19-5-207 to provide sewer services may install or
953 provide for the installation of sewage holding tanks at
954 residential properties within the district, if funding for
955 municipal or community sewers has been awarded to the district.
956 The district shall maintain or provide for the maintenance of the
957 sewage holding tank systems. * * * When municipal or community
958 sewers are available and ready for use, residences with sewage
959 holding tanks shall be connected to the sewer system at the
960 expense of the district.

961 **SECTION 21.** Section 41-67-8, Mississippi Code of 1972, which
962 provides for the duties of the Permit Board when wastewater is
963 discharged off-site, is repealed.

964 **SECTION 22.** Section 41-67-16, Mississippi Code of 1972,
965 which required a study of all individual on-site wastewater
966 disposal systems, is repealed.

967 **SECTION 23.** Section 41-67-31, Mississippi Code of 1972,
968 which provides for the repeal of the "Mississippi Individual
969 On-Site Wastewater Disposal System Law," is repealed.

970 **SECTION 24.** This act shall take effect and be in force from
971 and after its passage.