

By: Representative Franks

To: Conservation and Water
ResourcesHOUSE BILL NO. 896
(As Passed the House)

1 AN ACT TO AMEND SECTIONS 17-17-227 AND 17-17-229, MISSISSIPPI
2 CODE OF 1972, TO PROVIDE THE MISSISSIPPI COMMISSION ON
3 ENVIRONMENTAL QUALITY WITH SOLE AUTHORITY TO CONSIDER NEED IN
4 REVIEWING AND APPROVING OR DISAPPROVING LOCAL NONHAZARDOUS SOLID
5 WASTE MANAGEMENT PLANS AND TO REMOVE NEED CONSIDERATION IN
6 ISSUANCE OF PERMITS FOR NONHAZARDOUS SOLID WASTE FACILITIES; AND
7 FOR RELATED PURPOSES.

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

9 **SECTION 1.** Section 17-17-227, Mississippi Code of 1972, is
10 amended as follows:

11 17-17-227. (1) Each county, in cooperation with
12 municipalities within the county, shall prepare, adopt and submit
13 to the commission for review and approval a local nonhazardous
14 solid waste management plan for the county. Each local
15 nonhazardous solid waste management plan shall include, at a
16 minimum, the following:

17 (a) An inventory of the sources, composition and
18 quantities by weight or volume of municipal solid waste annually
19 generated within the county, and the source, composition and
20 quantity by weight or volume of municipal solid waste currently
21 transported into the county for management;

22 (b) An inventory of all existing facilities where
23 municipal solid waste is currently being managed, including the
24 environmental suitability and operational history of each
25 facility, and the remaining available permitted capacity for each
26 facility;

27 (c) An inventory of existing solid waste collection
28 systems and transfer stations within the county. The inventory

shall identify the entities engaging in municipal solid waste collection within the county;

(d) Mandatory achievement of a twenty-five percent (25%) waste reduction goal through source reduction, recycling or other waste reduction technologies within sixty (60) months of renewal of the solid waste management plan;

(e) A projection, using acceptable averaging methods, of municipal solid waste generated within the boundaries of the county over the next twenty (20) years;

(f) An identification of the additional municipal solid waste management facilities, including an evaluation of alternative management technologies, and the amount of additional capacity needed to manage the quantities projected in paragraph (e);

(g) An estimation of development, construction, operational, closure and post-closure costs, including a proposed method for financing those costs;

(h) A plan for meeting any projected capacity shortfall, including a schedule and methodology for attaining the required capacity; * * *

(i) A determination of need by the county, municipality, authority or district that is submitting the plan, for any new or expanded facilities. A determination of need shall include, at a minimum, the following:

(i) Verification that the proposed facility meets needs identified in the approved local nonhazardous solid waste management plan which shall take into account the quantities of municipal solid waste generated and the design capacities of existing facilities;

(ii) Certification that the proposed facility complies with local land use and zoning requirements, if any;

(iii) Demonstration, to the extent possible, that operation of the proposed facility will not negatively impact the

62 waste reduction strategy of the county, municipality, authority or
63 district that is submitting the plan;

64 (iv) Demonstration that the proposed service area
65 of the facility will not conflict with needs and plans identified
66 in the local nonhazardous solid waste management plan of the
67 county, municipality, authority or district; and

68 (v) A description of the extent to which the
69 proposed facility is needed to replace other facilities; and

70 (j) Any other information the commission may require.

71 (2) Each local nonhazardous solid waste management plan may
72 include:

73 (a) The preferred site or alternative sites for the
74 construction of any additional municipal solid waste management
75 facilities needed to properly manage the quantities of municipal
76 solid waste projected for the service areas covered by the plan,
77 including the factors which provided the basis for identifying the
78 preferred or alternative sites; and

79 (b) The method of implementation of the plan with
80 regard to the person who will apply for and acquire the permit for
81 any planned additional facilities and the person who will own or
82 operate any of the facilities.

83 (3) Each municipality shall cooperate with the county in
84 planning for the management of municipal solid waste generated
85 within its boundaries or the area served by that municipality.
86 The governing authority of any municipality which does not desire
87 to be included in the local nonhazardous solid waste management
88 plan shall adopt a resolution stating its intent not to be
89 included in the county plan. The resolution shall be provided to
90 the board of supervisors and the commission. Any municipality
91 resolving not to be included in a county waste plan shall prepare
92 a local nonhazardous solid waste management plan in accordance
93 with this section.

94 (4) The board of supervisors of any county may enter into
95 interlocal agreements with one or more counties as provided by law
96 to form a regional solid waste management authority or other
97 district to provide for the management of municipal solid waste
98 for all participating counties. For purposes of Section 17-17-221
99 through Section 17-17-227, a local nonhazardous solid waste
100 management plan prepared, adopted, submitted and implemented by
101 the regional solid waste management authority or other district is
102 sufficient to satisfy the planning requirements for the counties
103 and municipalities within the boundaries of the authority or
104 district.

105 (5) (a) Upon completion of its local nonhazardous solid
106 waste management plan, the board of supervisors of the county
107 shall publish in at least one (1) newspaper as defined in Section
108 13-3-31, having general circulation within the county a public
109 notice that describes the plan, specifies the location where it is
110 available for review, and establishes a period of thirty (30) days
111 for comments concerning the plan and a mechanism for submitting
112 those comments. The board of supervisors shall also notify the
113 board of supervisors of adjacent counties of the plan and shall
114 make it available for review by the board of supervisors of each
115 adjacent county. During the comment period, the board of
116 supervisors of the county shall conduct at least one (1) public
117 hearing concerning the plan. The board of supervisors of the
118 county shall publish twice in at least one (1) newspaper as
119 defined in Section 13-3-31, having general circulation within the
120 county, a notice conspicuously displayed containing the time and
121 place of the hearing and the location where the plan is available
122 for review.

123 (b) After the public hearing, the board of supervisors
124 of the county may modify the plan based upon the public's
125 comments. Within ninety (90) days after the public hearing, each

board of supervisors shall approve a local nonhazardous solid waste management plan by resolution.

(c) A regional solid waste management authority or other district shall declare the plan to be approved as the authority's or district's solid waste management plan upon written notification, including a copy of the resolution, that the board of supervisors of each county forming the authority or district has approved the plan.

(6) Upon ratification of the plan, the governing body of the county, authority or district shall submit it to the commission for review and approval in accordance with Section 17-17-225. The commission shall, by order, approve or disapprove the plan within one hundred eighty (180) days after its submission. The commission shall include with an order disapproving a plan a statement outlining the deficiencies in the plan and directing the governing body of the county, authority or district to submit, within one hundred twenty (120) days after issuance of the order, a revised plan that remedies those deficiencies. If the governing body of the county, authority or district, by resolution, requests an extension of the time for submission of a revised plan, the commission may, for good cause shown, grant one (1) extension for a period of not more than sixty (60) additional days.

(7) After approval of the plan or revised plan by the commission, the governing body of the county, authority or district shall implement the plan in compliance with the implementation schedule contained in the approved plan.

(8) The governing body of the county, authority or district shall annually review implementation of the approved plan. The commission may require the governing body of each local government or authority to revise the local nonhazardous solid waste management plan as necessary, but not more than once every five (5) years.

158 (9) If the commission finds that the governing body of a
159 county, authority or district has failed to submit a local
160 nonhazardous solid waste management plan, obtain approval of its
161 local nonhazardous solid waste management plan or materially fails
162 to implement its local nonhazardous solid waste management plan,
163 the commission shall issue an order in accordance with Section
164 17-17-29, to the governing body of the county, authority or
165 district.

166 (10) The commission may, by regulation, adopt an alternative
167 procedure to the procedure described in this section for the
168 preparation, adoption, submission, review and approval of minor
169 modifications of an approved local nonhazardous solid waste
170 management plan. For purposes of this section, minor
171 modifications may include administrative changes or the addition
172 of any noncommercial nonhazardous solid waste management facility.

173 (11) The executive director of the department shall maintain
174 a copy of all local nonhazardous solid waste management plans that
175 the commission has approved and any orders issued by the
176 commission.

177 (12) If a public notice required in subsection (5) was
178 published in a newspaper as defined in Section 13-3-31, having
179 general circulation within the county but was not published in a
180 daily newspaper of general circulation as required by subsection
181 (5) before April 20, 1993, the commission shall not disapprove the
182 plan for failure to publish the notice in a daily newspaper. Any
183 plan disapproved for that reason by the commission shall be deemed
184 approved after remedying any other deficiencies in the plan.

185 **SECTION 2.** Section 17-17-229, Mississippi Code of 1972, is
186 amended as follows:

187 17-17-229. (1) After approval of a local nonhazardous solid
188 waste management plan by the commission, neither the department,
189 the permit board nor any other agency of the State of Mississippi
190 shall issue any permit, grant or loan for any nonhazardous solid

waste management facility in a county, municipality region, or district which is not consistent with the approved local nonhazardous solid waste management plan. * * *

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(2) The commission shall adopt criteria to be considered in location and permitting of nonhazardous solid waste management facilities. The criteria shall be developed through public participation, shall be enforced by the permit board and shall include, in addition to all applicable state and federal rules and regulations, consideration of:

(a) Hydrological and geological factors, such as floodplains, depth to water table, soil composition, and permeability, cavernous bedrock, seismic activity, and slope;

(b) Natural resources factors, such as wetlands, endangered species habitats, proximity to parks, forests, wilderness areas and historical sites, and air quality;

(c) Land use factors, such as local land use, whether residential, industrial, commercial, recreational, agricultural, proximity to public water supplies, and proximity to incompatible structures such as schools, churches and airports;

(d) Transportation factors, such as proximity to waste generators and to population, route safety and method of transportation; and

(e) Aesthetic factors, such as the visibility, appearance and noise level of the facility.

SECTION 3. This act shall take effect and be in force from and after July 1, 2006.