

By: Senator(s) Moffatt

To: Environment Prot, Cons
and Water Res

SENATE BILL NO. 2771

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

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

31 (d) A strategy for achieving a twenty-five percent
32 (25%) waste reduction goal through source reduction, recycling or
33 other waste reduction technologies;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

186 17-17-229. (1) After approval of a local nonhazardous solid
187 waste management plan by the commission, neither the department,
188 the permit board nor any other agency of the State of Mississippi
189 shall issue any permit, grant or loan for any nonhazardous solid

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

193 * * *

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

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

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

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

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

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

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