

By: Senator(s) Moffatt

To: Environment Prot, Cons  
and Water Res

SENATE BILL NO. 2808

1 AN ACT TO AMEND SECTION 17-17-319, MISSISSIPPI CODE OF 1972,  
2 TO PROHIBIT REGIONAL SOLID WASTE MANAGEMENT AUTHORITIES FROM USING  
3 MANDATORY FLOW CONTROL POWERS IF SUCH POWERS HAVE NOT BEEN  
4 EXERCISED BEFORE A CERTAIN DATE; AND FOR RELATED PURPOSES.

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

6 **SECTION 1.** Section 17-17-319, Mississippi Code of 1972, is  
7 amended as follows:

8 17-17-319. (1) The authority may adopt and promulgate all  
9 reasonable rules and regulations regarding the specifications and  
10 standards relating to the construction, operation and maintenance  
11 of any facility owned or operated by the authority to comply with  
12 all federal and state environmental laws and regulations.

13 (2) The authority may determine if the mandatory flow of  
14 municipal solid waste to its facility is necessary to ensure the  
15 viability of the facility. Prior to the adoption of any ordinance  
16 declaring the necessity of requiring mandatory flow of municipal  
17 solid waste, the authority shall demonstrate in writing that it  
18 has considered the utilization of any municipal solid waste  
19 management facility \* \* \*, which meets the proposed or final state  
20 and federal regulations. The authority must show that its  
21 decision not to use the existing facility is based on the fact  
22 that such facility is environmentally unsound, costs for use of  
23 such facility is inconsistent with comparable facilities within  
24 the State of Mississippi, or the use of such facility is not  
25 consistent with the local nonhazardous solid waste management  
26 plan. If the authority adopts a resolution declaring the  
27 necessity of requiring mandatory flow of municipal solid waste to  
28 the facilities by any person located or residing within the

29 territorial boundaries of a member of the authority or a public  
30 agency or person which contracts for use or services of the  
31 facilities owned or operated by the authority, then each member  
32 shall comply by adopting a resolution or ordinance to require such  
33 mandatory flow.

34 (3) All such rules and regulations prescribed by the  
35 authority shall not conflict with or suspend any rules or  
36 regulations prescribed by general statute or the Department of  
37 Environmental Quality.

38 (4) If an authority adopts a resolution declaring the  
39 necessity of requiring mandatory flow of municipal solid waste to  
40 its facility, then any county or municipality participating in the  
41 regional authority is authorized to require by ordinance that all  
42 municipal solid waste generated within the designated geographic  
43 area that is placed in the waste stream be collected, transported,  
44 stored and managed at a designated permitted municipal solid waste  
45 management facility or facilities serving such area. The  
46 ordinance shall not be construed to prohibit the source separation  
47 of materials for purposes of recycling from municipal solid waste  
48 prior to collection of such municipal solid waste for management,  
49 or prohibit collectors of municipal solid waste from recycling  
50 materials or limit access to such materials as an incident to  
51 collection of such municipal solid waste; provided such  
52 prohibitions do not authorize the construction and operation of a  
53 resource recovery facility unless specifically provided for  
54 pursuant to an approved local nonhazardous solid waste management  
55 plan.

56 (5) (a) After January 1, 2006, authorities are expressly  
57 prohibited from exercising the mandatory flow powers granted under  
58 this section except as provided in paragraph (b).

59 (b) Any authority requiring the mandatory flow of  
60 municipal solid waste to its facility prior to January 1, 2006,

61 may continue and is empowered to exercise the mandatory flow  
62 control powers granted under this section.

63       (6) \* \* \* Any county or municipality which has issued bonds  
64 for a project as defined in Section 17-17-103, Mississippi Code of  
65 1972, and is not a member of a regional authority may continue and  
66 is empowered to assign collection territories, to regulate the  
67 collection of municipal solid wastes and to require the disposal  
68 of municipal solid wastes at a project to provide the volume of  
69 municipal solid wastes necessary to pay the operating costs of a  
70 project, or the principal and interest on revenue bonds issued for  
71 such project, or both such operating costs and bonds. When such  
72 county or municipality becomes a member of a regional authority,  
73 the county or municipality may exercise only those mandatory flow  
74 powers consistent with the regional authority plan.

75       **SECTION 2.** This act shall take effect and be in force from  
76 and after its passage.