

By: Senator(s) Simmons, Harden, Horhn, Mettetal, Doxey, Dawkins, Brown, Burton, Morgan, Williamson, Browning, Wilemon, Thomas, Frazier, Butler, Jordan, Jackson (11th)

To: Municipalities

SENATE BILL NO. 2906

1 AN ACT TO AMEND SECTION 21-19-1, MISSISSIPPI CODE OF 1972, TO
2 CLARIFY THE AUTHORITY OF A MUNICIPALITY TO PERFORM MOSQUITO
3 ABATEMENT AND CONTROL AS PART OF ITS INHERENT AUTHORITY TO SECURE
4 THE GENERAL HEALTH AND WELFARE; TO BRING FORWARD FOR PURPOSES OF
5 AMENDMENT SECTIONS 21-19-2 AND 21-19-3, MISSISSIPPI CODE OF 1972;
6 AND FOR RELATED PURPOSES.

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

8 **SECTION 1.** Section 21-19-1, Mississippi Code of 1972, is
9 amended as follows:

10 21-19-1. (1) The municipal governing authorities of any
11 municipality shall have the power to make regulations to secure
12 the general health of the municipality; to prevent, remove, and
13 abate nuisances; to regulate or prohibit the construction of privy
14 vaults and cesspools, and to regulate or suppress those already
15 constructed; to compel and regulate the connection of all property
16 with sewers and drains; to suppress hog pens, slaughterhouses and
17 stockyards, or to regulate the same and prescribe and enforce
18 regulations for cleaning and keeping the same in order; to
19 regulate and prescribe and enforce regulations for the cleaning
20 and keeping in order of warehouses, stables, alleys, yards,
21 private ways, outhouses, and other places where offensive matter
22 is kept or permitted to accumulate; to perform mosquito abatement
23 and control, including the regulation of places and practices
24 tending to contribute to the breeding of mosquitoes; and to compel
25 and regulate the removal of garbage and filth beyond the corporate
26 limits. The municipal governing authorities are further
27 authorized to adopt and enforce regulations governing the disposal
28 of garbage and rubbish in sanitary landfills owned or leased by
29 the municipality, whether located within or outside of the

30 corporate limits of the municipality, to the extent that such
31 regulations are not in conflict with or prohibited by regulations
32 of the Commission on Environmental Quality adopted under Section
33 17-17-27.

34 (2) After December 31, 1992, the governing body of any
35 municipality in the state shall provide for the collection and
36 disposal of garbage and the disposal of rubbish, and for that
37 purpose the governing body shall have the power to:

38 (a) Establish, operate and maintain a garbage and/or
39 rubbish collection and disposal system or systems;

40 (b) Acquire property, real or personal, by contract,
41 gift or purchase, necessary or proper for the maintenance and
42 operation of such system;

43 (c) Make all necessary rules and regulations for the
44 collection and disposal of garbage and/or rubbish not in conflict
45 with or prohibited by rules and regulations of the Commission on
46 Environmental Quality adopted under Section 17-17-27 and, if it so
47 desires, establish, maintain and collect rates, fees and charges
48 for collecting and disposing of such garbage and/or rubbish; and

49 (d) In its discretion, enter into contracts, in the
50 manner required by law, with individuals, associations or
51 corporations for the establishment, operation and maintenance of a
52 garbage or rubbish disposal system or systems, and/or enter into
53 contracts on such terms as the municipal governing body thinks
54 proper with any other municipality, county or region enabling the
55 municipality to use jointly with such other municipality, county
56 or region any authorized rubbish landfill or permitted sanitary
57 landfill operated by the other municipality, other county or
58 region.

59 As a necessary incident to such municipal governing
60 authority's power and authority to establish, maintain and collect
61 such rates, fees and charges for collecting and disposing of such
62 garbage and/or rubbish, and as a necessary incident to such

63 municipal governing authority's power and authority to establish,
64 operate and maintain a garbage and/or rubbish disposal system or
65 systems, the municipal governing authority of such municipality
66 shall have the authority to initiate a civil action to recover any
67 delinquent fees and charges for collecting and disposing of such
68 rubbish, and all administrative and legal costs associated with
69 collecting such fees and charges, in the event any person, firm or
70 corporation, including any municipal corporation, shall fail or
71 refuse to pay such fees and charges for collecting and disposing
72 of garbage and/or rubbish; provided that such municipal governing
73 authority may initiate such a civil action to recover such
74 delinquent fees and charges whether or not such municipality has
75 previously entered into a contract with such individual, firm or
76 corporation, relating to the establishment, operation and
77 maintenance of such garbage and/or rubbish disposal system or
78 systems; provided further, that in a civil action to recover such
79 delinquent fees and charges for collecting and disposing of such
80 garbage and/or rubbish, and all administrative and legal costs
81 associated with collecting such fees and charges, the municipality
82 shall in all respects be a proper party to such suit as plaintiff
83 and shall have the power to sue for and recover such unpaid fees
84 and charges, and all administrative and legal costs associated
85 with collecting such fees and charges from any person, firm or
86 corporation, as may fail, refuse or default in the payment of such
87 fees and charges.

88 (3) The governing authority of a municipality performing
89 mosquito abatement and control may charge a fee for the mosquito
90 abatement service to be imposed and collected in all respects as
91 is provided in this section for the collection and disposal of
92 garbage and rubbish. The governing authority of the municipality
93 shall provide for the collection of the fee. The governing
94 authority may assess and collect the fee from each single or
95 multifamily residential unit on a periodic basis as is provided

96 for garbage and rubbish collection and disposal. Any person who
97 pays, as a part of a rental or lease agreement, an amount for
98 mosquito abatement and control services shall not be held liable
99 upon the failure of the property owner to pay such fees.

100 **SECTION 2.** Section 21-19-2, Mississippi Code of 1972, is
101 amended as follows:

102 21-19-2. (1) (a) To defray the cost of establishing,
103 operating and maintaining the system provided for in Section
104 21-19-1, the governing authority of a municipality may develop a
105 system for the billing and * * * collection of any fees or charges
106 imposed on each person furnished mosquito abatement service or
107 garbage and * * * rubbish collection and * * * disposal service by
108 the municipality or at the expense of the municipality. The
109 governing authority of the municipality shall provide for the
110 collection of the fees or charges.

111 (b) The governing authority of a municipality may enter
112 into a contract upon mutual agreement with a public or private
113 corporation, nonprofit corporation, planning and development
114 district or a public agency, association, utility or utility
115 district within the area receiving mosquito abatement service or
116 garbage and * * * rubbish collection and * * * disposal services
117 from the municipality for the purpose of developing, maintaining,
118 operating and administering a system for the billing and * * *
119 collection of fees or charges imposed by the municipality for
120 garbage and * * * rubbish collection and * * * disposal services.
121 The entity with whom the governing authority of a municipality
122 contracts shall notify the governing authority of the municipality
123 monthly of any unpaid fees or charges assessed under this section.
124 Any entity that contracts to provide a service to customers,
125 within the area being served by the municipality's garbage
126 and * * * rubbish collection and * * * disposal system, may
127 provide a list of its customers to the governing authority of the
128 municipality upon the request of the governing authority.

129 (2) (a) To defray the cost of establishing and operating
130 the system provided for in Section 21-19-1, the governing body of
131 a municipality may levy an ad valorem tax not to exceed four (4)
132 mills on all taxable property within the area served by the
133 municipality's garbage and * * * rubbish collection and * * *
134 disposal system. The service area may be comprised of
135 incorporated and/or unincorporated areas within a county; however,
136 no property shall be subject to this levy unless that property is
137 within an area served by a municipality's garbage and * * *
138 rubbish collection and * * * disposal system. The rate of the ad
139 valorem tax levied under this section shall be shown as a line
140 item on the notice of ad valorem taxes on taxable property owed by
141 the taxpayer.

142 (b) In addition to or in lieu of any other method
143 authorized to defray the cost of establishing and operating the
144 system provided for in Section 21-19-1, the governing body of a
145 municipality that has established a garbage and * * * rubbish
146 collection and * * * disposal system may assess and collect fees
147 or charges to defray the costs of such services. The governing
148 authority may assess and collect the fees or charges from each
149 single family residential generator of garbage and * * * rubbish.
150 The governing authority also may assess and collect such fees or
151 charges from each industrial, commercial and multifamily
152 residential generator of garbage and * * * rubbish for any time
153 period that the generator has not otherwise contracted for the
154 collection of garbage and * * * rubbish that is ultimately
155 disposed of at a permitted or authorized nonhazardous solid waste
156 management facility.

157 (c) Before the adoption of any resolution or ordinance
158 to increase the ad valorem tax assessment or fees or charges
159 authorized by this section, the governing authority of a
160 municipality shall have published a notice advertising its intent
161 to increase the ad valorem tax assessment or fees or charges

162 authorized by this section. The notice shall specify the purpose
163 of the proposed increase, the proposed percentage increase and the
164 proposed percentage increase in total revenues for garbage
165 and * * * rubbish collection and * * * disposal services or shall
166 contain a copy of any resolution by the governing authority
167 stating their intent to increase the ad valorem tax assessment or
168 fees or charges authorized by this section. The notice shall be
169 published in a newspaper having general circulation in the
170 municipality for no less than three (3) consecutive weeks before
171 the adoption of the order. The notice shall be in print no less
172 than the size of eighteen (18) point and shall be surrounded by a
173 one-fourth (1/4) inch black border. The notice shall not be
174 placed in the legal section notice of the newspaper. There shall
175 be no language in the notice inferring a mandate from the
176 Legislature.

177 In addition to the requirement for publication of notice, the
178 governing authority of a municipality shall notify each person
179 furnished garbage and * * * rubbish collection and * * * disposal
180 service of any increase in the ad valorem tax assessment or fees
181 or charges authorized by this section. In the case of an increase
182 of the ad valorem tax assessment, a notice shall be conspicuously
183 placed on or attached to the first ad valorem tax bill on which
184 the increased assessment is effective. In the case of an increase
185 in fees or charges, a notice shall be conspicuously placed on or
186 attached to the first bill for fees or charges on which the
187 increased fees or charges are assessed. There shall be no
188 language in any notice inferring a mandate from the Legislature.

189 (d) The governing authority of a municipality may adopt
190 an ordinance authorizing the granting of exemptions from the fees
191 or charges for certain generators of garbage and * * * rubbish.
192 The ordinance shall define clearly those generators that may be
193 exempted and shall be interpreted consistently by the governing

194 authority when determining whether to grant or withhold requested
195 exemptions.

196 (e) The governing authority may borrow money for the
197 purpose of defraying the expenses of the system in anticipation
198 of:

199 (i) The tax levy authorized under this section;

200 (ii) Revenues resulting from the assessment of any
201 fees or charges for garbage and * * * rubbish collection and * * *
202 disposal; or

203 (iii) Any combination thereof.

204 (3) (a) Fees or charges for garbage and * * * rubbish
205 collection and * * * disposal shall be assessed jointly and
206 severally against the generator of the garbage and * * * rubbish
207 and against the owner of the property furnished the service.
208 However, any person who pays, as a part of a rental or lease
209 agreement, an amount for garbage and * * * rubbish collection
210 and/or disposal services shall not be held liable upon the failure
211 of the property owner to pay such fees.

212 (b) Every generator assessed the fees or charges
213 provided for and limited by this section and the owner of the
214 property occupied by that generator shall be jointly and severally
215 liable for the fees and * * * charges so assessed. The fees or
216 charges shall be a lien upon the real property offered garbage
217 and * * * rubbish collection and * * * disposal service.

218 At the discretion of the governing body of the municipality,
219 fees or charges assessed for the service may be assessed annually.
220 If fees or charges are assessed annually, the fees or charges for
221 each calendar year shall be a lien upon the real property offered
222 the service beginning on January 1 of the next immediately
223 succeeding calendar year. The person or entity owing the fees or
224 charges, upon signing a form provided by the governing authority,
225 may pay the fees or charges in equal installments.

226 If fees or charges so assessed are assessed on a basis other
227 than annually, the fees or charges shall become a lien on the real
228 property offered the service on the date that the fees or charges
229 become due and payable.

230 No real or personal property shall be sold to satisfy any
231 lien imposed under this section.

232 The municipality shall mail a notice of the lien, including
233 the amount of unpaid fees or charges and a description of the
234 property subject to the lien, to the owner of the property subject
235 to the lien.

236 (c) The municipal governing body shall notify the
237 county tax collector of any unpaid fees or charges assessed under
238 this section within ninety (90) days after such fees or charges
239 are due. Upon receipt of a delinquency notice, the tax collector
240 shall not issue or renew a motor vehicle road and bridge privilege
241 license for any motor vehicle owned by a person who is delinquent
242 in the payment of fees or charges, unless such fees or charges, in
243 addition to any other taxes or fees assessed against the motor
244 vehicle, are paid.

245 (d) Liens created under this section may be discharged
246 as follows:

247 (i) By filing with the municipal tax collector a
248 receipt or acknowledgement, signed by the municipality, that the
249 lien has been paid or discharged; or

250 (ii) By depositing with the municipal tax
251 collector money equal to the amount of the claim, which money
252 shall be held for the benefit of the municipality.

253 **SECTION 3.** Section 21-19-3, Mississippi Code of 1972, is
254 amended as follows:

255 21-19-3. The governing authorities of municipalities shall
256 have the power to make regulations to prevent the introduction and
257 spread of contagious or infectious diseases; to perform mosquito
258 abatement services; to make quarantine laws for that purpose, and

259 to enforce the same within five miles of the corporate limits; and
260 to establish pesthouses outside the corporate limits, and to
261 provide for the support and government of the same.

262 **SECTION 4.** This act shall take effect and be in force from
263 and after July 1, 2006.