

By: False

To: Conservation and Water Resources

HOUSE BILL NO. 949

1 AN ACT TO AMEND SECTION 17-17-227, MISSISSIPPI CODE OF 1972,  
 2 TO PROVIDE THAT NO SOLID WASTE MANAGEMENT PLAN SHALL INCLUDE ANY  
 3 PROPOSED NEW NONHAZARDOUS SOLID WASTE SANITARY LANDFILL IF THE NEW  
 4 LANDFILL IS LOCATED WITHIN A COUNTY HAVING TWO OR MORE EXISTING  
 5 PERMITTED NONHAZARDOUS SOLID WASTE SANITARY LANDFILLS, UNLESS A  
 6 REFERENDUM ELECTION HAS BEEN CONDUCTED AND APPROVED; TO AMEND  
 7 SECTION 17-17-229, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT A  
 8 FACILITY PERMIT GRANT OR LOAN MAY NOT BE ISSUED BY ANY AGENCY OF  
 9 THE STATE FOR ANY NEW NONHAZARDOUS SOLID WASTE SANITARY LANDFILL  
 10 IF THE NEW LANDFILL IS LOCATED WITHIN A COUNTY HAVING TWO OR MORE  
 11 EXISTING PERMITTED NONHAZARDOUS SOLID WASTE SANITARY LANDFILLS,  
 12 UNLESS A REFERENDUM HAS BEEN CONDUCTED AND APPROVED; TO CREATE NEW  
 13 SECTION 17-17-237, MISSISSIPPI CODE OF 1972, TO PROVIDE FOR THE  
 14 REFERENDUM PROCESS; AND FOR RELATED PURPOSES.

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

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

18 17-17-227. (1) Each county, in cooperation with  
 19 municipalities within the county, shall prepare, adopt and submit  
 20 to the commission for review and approval a local nonhazardous  
 21 solid waste management plan for the county. Each local  
 22 nonhazardous solid waste management plan shall include, at a  
 23 minimum, the following:



24 (a) An inventory of the sources, composition and  
25 quantities by weight or volume of municipal solid waste annually  
26 generated within the county, and the source, composition and  
27 quantity by weight or volume of municipal solid waste currently  
28 transported into the county for management;

29 (b) An inventory of all existing facilities where  
30 municipal solid waste is currently being managed, including the  
31 environmental suitability and operational history of each  
32 facility, and the remaining available permitted capacity for each  
33 facility;

34 (c) An inventory of existing solid waste collection  
35 systems and transfer stations within the county. The inventory  
36 shall identify the entities engaging in municipal solid waste  
37 collection within the county;

38 (d) A strategy for achieving a twenty-five percent  
39 (25%) waste reduction goal through source reduction, recycling or  
40 other waste reduction technologies;

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

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



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

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

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

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

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

66 (iii) Demonstration, to the extent possible, that  
67 operation of the proposed facility will not negatively impact the  
68 waste reduction strategy of the county, municipality, authority or  
69 district that is submitting the plan;

70 (iv) Certification that the proposed service area  
71 of the proposed facility is consistent with the local nonhazardous  
72 solid waste management plan; and



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

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

76 (2) Each local nonhazardous solid waste management plan may  
77 include:

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

84 (b) The method of implementation of the plan with  
85 regard to the person who will apply for and acquire the permit for  
86 any planned additional facilities and the person who will own or  
87 operate any of the facilities.

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



97 a local nonhazardous solid waste management plan in accordance  
98 with this section.

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

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



122 hearing concerning the plan. The board of supervisors of the  
123 county shall publish twice in at least one (1) newspaper as  
124 defined in Section 13-3-31, having general circulation within the  
125 county, a notice conspicuously displayed containing the time and  
126 place of the hearing and the location where the plan is available  
127 for review.

128 (b) After the public hearing, the board of supervisors  
129 of the county may modify the plan based upon the public's  
130 comments. Within ninety (90) days after the public hearing, each  
131 board of supervisors shall approve a local nonhazardous solid  
132 waste management plan by resolution.

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

139 (6) Upon ratification of the plan, the governing body of the  
140 county, authority or district shall submit it to the commission  
141 for review and approval in accordance with Section 17-17-225. The  
142 commission shall, by order, approve or disapprove the plan within  
143 one hundred eighty (180) days after its submission. The  
144 commission shall include with an order disapproving a plan a  
145 statement outlining the deficiencies in the plan and directing the  
146 governing body of the county, authority or district to submit,



147 within one hundred twenty (120) days after issuance of the order,  
148 a revised plan that remedies those deficiencies. If the governing  
149 body of the county, authority or district, by resolution, requests  
150 an extension of the time for submission of a revised plan, the  
151 commission may, for good cause shown, grant one (1) extension for  
152 a period of not more than sixty (60) additional days.

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

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

163 (9) If the commission finds that the governing body of a  
164 county, authority or district has failed to submit a local  
165 nonhazardous solid waste management plan, obtain approval of its  
166 local nonhazardous solid waste management plan or materially fails  
167 to implement its local nonhazardous solid waste management plan,  
168 the commission shall issue an order in accordance with Section  
169 17-17-29, to the governing body of the county, authority or  
170 district.



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

178 (11) The executive director of the department shall maintain  
179 a copy of all local nonhazardous solid waste management plans that  
180 the commission has approved and any orders issued by the  
181 commission.

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

190 (13) Notwithstanding any provision of this chapter, no solid  
191 waste management plan shall include any proposed new nonhazardous  
192 solid waste sanitary landfill if such new landfill is located  
193 within a county having two (2) or more existing permitted  
194 nonhazardous solid waste sanitary landfills unless a referendum  
195 election has been conducted and approved pursuant to Section





196 17-17-237. This subsection (13) shall not apply to the proposed  
197 expansion of any existing permitted nonhazardous solid waste  
198 landfill.

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

201 17-17-229. (1) After approval of a local nonhazardous solid  
202 waste management plan by the commission, neither the department,  
203 the permit board nor any other agency of the State of Mississippi  
204 shall issue any permit, grant or loan for any nonhazardous solid  
205 waste management facility in a county, municipality region, or  
206 district which is not consistent with the approved local  
207 nonhazardous solid waste management plan.

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

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

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



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

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

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

229 (3) Notwithstanding any other provision of this chapter,  
230 neither the department, the permit board nor any other agency of  
231 the State of Mississippi shall issue any permit, grant or loan  
232 for any new nonhazardous solid waste sanitary landfill in a  
233 county having two (2) or more existing permitted nonhazardous  
234 solid waste sanitary landfills unless a referendum election has  
235 been conducted and approved pursuant to Section 17-17-237. This  
236 subsection (3) shall not apply to the proposed expansion of any  
237 existing permitted nonhazardous solid waste landfill.

238 **SECTION 3.** The following shall be codified as Section  
239 17-17-237, Mississippi Code of 1972:

240 17-17-237. (1) No new nonhazardous solid waste sanitary  
241 landfill shall be incorporated into any solid waste management  
242 plan and no reference in any existing plan to any unpermitted new  
243 nonhazardous solid waste sanitary landfill shall be effective,  
244 applicable or operative and no permit, grant or loan shall be



245 approved for any new nonhazardous solid waste sanitary landfill  
246 if such new landfill is to be located in a county having two (2)  
247 or more existing permitted nonhazardous solid waste sanitary  
248 landfills unless and until a local referendum election shall be  
249 called and held in the county in which said new nonhazardous  
250 solid waste sanitary landfill is proposed and with the results  
251 hereinafter provided. The board of supervisors may require the  
252 proponent of or applicant for such new nonhazardous solid waste  
253 sanitary landfill to pay the costs of any such election.

254 (2) Upon presentation and filing of a proper petition  
255 requesting same signed by at least twenty percent (20%) or  
256 fifteen hundred (1,500), whichever number is the lesser, of the  
257 qualified electors of the county, it shall be the duty of the  
258 board of supervisors to call an election at which there shall  
259 be submitted to the qualified electors of the county the  
260 question of whether or not the new nonhazardous solid waste  
261 sanitary landfill proposed to be sited within a county having  
262 two (2) or more existing permitted nonhazardous solid waste  
263 sanitary landfills shall be eligible for consideration by the  
264 board of supervisors for inclusion in the solid waste  
265 management plan of the county. Such election shall be held and  
266 conducted by the county election commissioners on a date fixed  
267 by the order of the board of supervisors, which date shall not  
268 be more than sixty (60) days from the date of the filing of  
269 said petition. Notice thereof shall be given by publishing



270 such notice once each week for at least three (3) consecutive  
271 weeks in some newspaper published in said county or, if no  
272 newspaper be published therein, by such publication in a  
273 newspaper in an adjoining county and having a general  
274 circulation in the county involved. The election shall be held  
275 not earlier than fifteen (15) days from the first publication  
276 of such notice.

277 (3) The election shall be held and conducted as far as  
278 may be possible in the same manner as is provided by law for  
279 the holding of general elections. The ballots used thereat  
280 shall contain a brief statement of the proposition submitted  
281 and, on separate lines, the words "I vote FOR new nonhazardous  
282 solid waste sanitary landfill in \_\_\_\_\_ County ( )", "I vote  
283 AGAINST new nonhazardous solid waste sanitary landfill in  
284 County ( )" with appropriate boxes in which the voters may  
285 express their choice. All qualified electors may vote by  
286 marking the ballot with a cross (x) or check mark(✓) opposite  
287 the words of their choice.

288 (4) The election commissioners shall canvass and  
289 determine the results of the election, and shall certify same  
290 to the board of supervisors which shall adopt and spread upon  
291 its minutes an order declaring such results. If, in such  
292 election, sixty percent (60%) of the qualified electors  
293 participating therein shall vote in favor of the proposition,  
294 inclusion of the proposed new nonhazardous solid waste sanitary



295 landfill in a solid waste management plan and permitting of  
296 such landfill may be approved provided that all other  
297 requirements of law are satisfied as to said landfill. If, on  
298 the other hand, sixty percent (60%) of the qualified electors  
299 participating therein shall not vote in favor of the  
300 proposition, the new landfill may not be included in any solid  
301 waste management plan and shall not be permitted. In either  
302 case, no further election shall be held in a county under the  
303 provisions of this chapter for a period of two (2) years from  
304 the date of the prior election and then only upon the filing of  
305 a petition requesting same signed by at least twenty percent  
306 (20%) or fifteen hundred (1,500), whichever number is the  
307 lesser, of the qualified electors of the county as is otherwise  
308 provided herein.

309       **SECTION 4.** This act shall take effect and be in force from  
310 and after its passage.

