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To: Conservation and Water
Resources

HOUSE BILL NO. 949
(As Sent to Governor)

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 MUNICIPAL SOLID WASTE LANDFILL IF THE NEW LANDFILL IS
4 LOCATED WITHIN A CERTAIN COUNTY HAVING TWO OR MORE EXISTING
5 PERMITTED MUNICIPAL SOLID WASTE LANDFILLS AND SUCH NEW LANDFILL
6 WILL BE LOCATED WITHIN A FIVE-MILE RADIUS OF AN EXISTING MUNICIPAL
7 SOLID WASTE LANDFILL, UNLESS A REFERENDUM ELECTION HAS BEEN
8 CONDUCTED AND APPROVED; TO AMEND SECTION 17-17-229, MISSISSIPPI
9 CODE OF 1972, TO PROVIDE THAT A FACILITY PERMIT GRANT OR LOAN MAY
10 NOT BE ISSUED BY ANY AGENCY OF THE STATE FOR ANY NEW MUNICIPAL
11 SOLID WASTE LANDFILL IF THE NEW LANDFILL IS LOCATED WITHIN A
12 CERTAIN COUNTY HAVING TWO OR MORE EXISTING PERMITTED MUNICIPAL
13 SOLID WASTE LANDFILLS AND SUCH NEW LANDFILL WILL BE LOCATED WITHIN
14 A FIVE-MILE RADIUS OF AN EXISTING MUNICIPAL SOLID WASTE LANDFILL,
15 UNLESS A REFERENDUM HAS BEEN CONDUCTED AND APPROVED; TO CREATE NEW
16 SECTION 17-17-237, MISSISSIPPI CODE OF 1972, TO PROVIDE FOR THE
17 REFERENDUM PROCESS; AND FOR RELATED PURPOSES.

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

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

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



nonhazardous solid waste management plan shall include, at a minimum, the following:

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

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

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

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

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



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

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

(j) Any other information the commission may require.

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

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

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

(3) Each municipality shall cooperate with the county in planning for the management of municipal solid waste generated within its boundaries or the area served by that municipality. The governing authority of any municipality which does not desire to be included in the local nonhazardous solid waste management plan shall adopt a resolution stating its intent not to be included in the county plan. The resolution shall be provided to



98 the board of supervisors and the commission. Any municipality
99 resolving not to be included in a county waste plan shall prepare
100 a local nonhazardous solid waste management plan in accordance
101 with this section.

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

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



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

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

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

142 (6) Upon ratification of the plan, the governing body of the
143 county, authority or district shall submit it to the commission
144 for review and approval in accordance with Section 17-17-225. The
145 commission shall, by order, approve or disapprove the plan within
146 one hundred eighty (180) days after its submission. The
147 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.

(9) If the commission finds that the governing body of a county, authority or district has failed to submit a local nonhazardous solid waste management plan, obtain approval of its local nonhazardous solid waste management plan or materially fails to implement its local nonhazardous solid waste management plan, the commission shall issue an order in accordance with Section



17-17-29, to the governing body of the county, authority or district.

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

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

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

(13) Notwithstanding any provision of this chapter, no solid waste management plan shall include a proposed new municipal solid waste landfill in any county that has two (2) or more existing permitted municipal solid waste landfills and such new landfill



will be located within a five (5) mile radius of an existing municipal solid waste landfill, unless a referendum election has been conducted and approved pursuant to Section 17-17-237. This subsection (13) shall not apply to the proposed expansion or replacement of any permitted landfill by the permit holder, and shall not apply to any rubbish disposal facilities, transfer stations, land application sites, composting facilities, solid waste processing facilities, chipping/mulching facilities, industrial/institutional/special waste landfills, industrial/institutional/special waste rubbish sites, waste tire processing facilities, commercial waste tire collection sites, local government waste tire collection sites or generator waste tire collection sites, and none of those facilities, stations, landfills or sites shall be counted as a landfill within a county for the purpose of determining whether a referendum election is required to be conducted in the county as provided in this section.

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

17-17-229. (1) After approval of a local nonhazardous solid waste management plan by the commission, neither the department, the permit board nor any other agency of the State of Mississippi 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.

(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.

(3) Notwithstanding any provision of this chapter, no solid waste management plan shall include a proposed new municipal solid



waste landfill in any county that has two (2) or more existing permitted municipal solid waste landfills and such new landfill will be located within a five (5) mile radius of an existing municipal solid waste landfill, unless a referendum election has been conducted and approved pursuant to Section 17-17-237. This subsection (3) shall not apply to the proposed expansion or replacement of any permitted landfill by the permit holder, and shall not apply to any rubbish disposal facilities, transfer stations, land application sites, composting facilities, solid waste processing facilities, chipping/mulching facilities, industrial/institutional/special waste landfills, industrial/institutional/special waste rubbish sites, waste tire processing facilities, commercial waste tire collection sites, local government waste tire collection sites or generator waste tire collection sites, and none of those facilities, stations, landfills or sites shall be counted as a landfill within a county for the purpose of determining whether a referendum election is required to be conducted in the county as provided in this section.

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

17-17-237. (1) No new municipal solid waste landfill shall be incorporated into any solid waste management plan and no reference in any existing plan to any unpermitted new municipal solid waste landfill shall be effective, applicable or operative



and no permit, grant or loan shall be approved for any new municipal solid waste landfill in any county that has two (2) or more existing permitted municipal solid waste landfills and such new landfill will be located within a five (5) mile radius of an existing municipal solid waste landfill, unless a local referendum election has been called and held in the county in which the new municipal solid waste landfill is proposed and with the results hereinafter provided. The board of supervisors may require the proponent of or applicant for the new municipal solid waste landfill to pay the costs of the election.

(2) Upon presentation and filing of a proper petition requesting same signed by at least twenty percent (20%) or fifteen hundred (1,500), whichever number is the lesser, of the qualified electors of the county, it shall be the duty of the board of supervisors to call an election at which there shall be submitted to the qualified electors of the county the question of whether or not the new municipal solid waste landfill proposed to be sited within the county shall be eligible for consideration by the board of supervisors for inclusion in the solid waste management plan of the county. Such election shall be held and conducted by the county election commissioners on a date fixed by the order of the board of supervisors, which date shall not be more than sixty (60) days from the date of the filing of said petition. Notice thereof shall be given by publishing such notice once each week



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

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

(4) The election commissioners shall canvass and determine the results of the election, and shall certify same to the board of supervisors which shall adopt and spread upon its minutes an order declaring such results. If, in such election, sixty percent (60%) of the qualified electors participating therein shall vote in favor of the proposition, inclusion of the proposed new municipal solid waste landfill in a solid waste management plan and permitting of such landfill



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

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

