

By: Senator(s) Horhn

To: Environment Prot, Cons
and Water Res

SENATE BILL NO. 2491

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

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

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

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



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

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

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

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

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

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



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

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

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

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

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

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

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



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

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

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

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

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

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



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

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

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



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

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

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

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



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

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

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

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



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

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

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

189 (13) Notwithstanding any provision of this chapter, no solid
190 waste management plan shall include any proposed new solid waste
191 facility including landfills, rubbish sites, processing
192 facilities, land application sites, composting facilities, waste
193 incinerators, and transfer stations if such new facility is
194 located within one (1) mile of an existing permitted solid waste



195 facility, unless a referendum election has been conducted and
196 approved pursuant to Section 17-17-237.

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

199 17-17-229. (1) After approval of a local nonhazardous solid
200 waste management plan by the commission, neither the department,
201 the permit board nor any other agency of the State of Mississippi
202 shall issue any permit, grant or loan for any nonhazardous solid
203 waste management facility in a county, municipality region, or
204 district which is not consistent with the approved local
205 nonhazardous solid waste management plan.

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

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

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

218 (c) Land use factors, such as local land use, whether
219 residential, industrial, commercial, recreational, agricultural,



220 proximity to public water supplies, and proximity to incompatible
221 structures such as schools, churches and airports;

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

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

227 (3) Notwithstanding any other provision of this chapter,
228 neither the department, the permit board, nor any other agency of
229 the State of Mississippi, shall issue any permit, grant or loan
230 for any new solid waste management facility in a county,
231 municipality, region or district if such new facility is located
232 within one (1) mile of an existing permitted solid waste facility,
233 unless a referendum election has been conducted and approved
234 pursuant to Section 17-17-237.

235 **SECTION 3.** The following shall be codified as Section
236 17-17-237, Mississippi Code of 1972:

237 17-17-237. (1) No new solid waste facility including
238 landfills, rubbish sites, processing facilities, land application
239 sites, composting facilities, waste incinerators and transfer
240 stations shall be incorporated into any solid waste management
241 plan, and no reference in any existing plan to any unpermitted new
242 solid waste facility shall be effective, applicable or operative,
243 and no permit, grant or loan shall be approved for any new solid
244 waste facility if such new facility is to be located within one



245 (1) mile of an existing permitted solid waste facility, unless a
246 local referendum election is called and held in the county in
247 which the new solid waste facility is proposed and with the
248 results provided in this section. The board of supervisors may
249 require the proponent of or applicant for the new solid waste
250 facility to pay the costs of any such election.

251 (2) Upon presentation and filing of a proper petition
252 requesting same signed by at least twenty percent (20%) or one
253 thousand five hundred (1,500), whichever number is the lesser, of
254 the qualified electors of the county, it shall be the duty of the
255 board of supervisors to call an election at which there shall be
256 submitted to the qualified electors of the county the question of
257 whether or not the new solid waste facility proposed to be sited
258 within one (1) mile of an existing permitted solid waste facility
259 in said county shall be eligible for consideration by the board of
260 supervisors for inclusion in the solid waste management plan of
261 the county. Such election shall be held and conducted by the
262 county election commissioners on a date fixed by the order of the
263 board of supervisors, which date shall not be more than sixty (60)
264 days from the date of the filing of said petition. Notice thereof
265 shall be given by publishing such notice once each week for at
266 least three (3) consecutive weeks in some newspaper published in
267 said county or, if no newspaper be published therein, by such
268 publication in a newspaper in an adjoining county and having a
269 general circulation in the county involved. The election shall be



270 held not earlier than fifteen (15) days from the first publication
271 of such notice.

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

282 (4) The election commissioners shall canvass and determine
283 the results of said election, and shall certify same to the board
284 of supervisors which shall adopt and spread upon its minutes an
285 order declaring such results. If, in such election, sixty percent
286 (60%) of the qualified electors participating therein shall vote
287 in favor of the proposition, inclusion of the proposed new solid
288 waste facility in a solid waste management plan and permitting of
289 such facility may be approved provided that all other requirements
290 of law are satisfied as to said facility. If, on the other hand,
291 a majority of the qualified electors participating in the election
292 shall vote against the proposition, said new facility may not be
293 included in any solid waste management plan and shall not be
294 permitted. In either case, no further election shall be held in



295 said county under the provisions of this chapter for a period of
296 two (2) years from the date of the prior election and then only
297 upon the filing of a petition requesting same signed by at least
298 twenty percent (20%) or one thousand five hundred (1,500),
299 whichever number is the lesser, of the qualified electors of the
300 county as is otherwise provided herein.

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

