

## Senate Amendments to House Bill No. 949

TO THE CLERK OF THE HOUSE:

THIS IS TO INFORM YOU THAT THE SENATE HAS ADOPTED THE AMENDMENTS SET OUT BELOW:

### AMENDMENT NO. 1

Amend by striking all after the enacting clause and inserting in lieu thereof the following:

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

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

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

33                   (b) An inventory of all existing facilities where  
34 municipal solid waste is currently being managed, including the  
35 environmental suitability and operational history of each

36 facility, and the remaining available permitted capacity for each  
37 facility;

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

42 (d) A strategy for achieving a twenty-five percent  
43 (25%) waste reduction goal through source reduction, recycling or  
44 other waste reduction technologies;

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

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

53 (g) An estimation of development, construction,  
54 operational, closure and post-closure costs, including a proposed  
55 method for financing those costs;

56 (h) A plan for meeting any projected capacity  
57 shortfall, including a schedule and methodology for attaining the  
58 required capacity;

59 (i) A determination of need by the county,  
60 municipality, authority or district that is submitting the plan,

61 for any new or expanded facilities. A determination of need shall  
62 include, at a minimum, the following:

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

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

70 (iii) Demonstration, to the extent possible, that  
71 operation of the proposed facility will not negatively impact the  
72 waste reduction strategy of the county, municipality, authority or  
73 district that is submitting the plan;

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

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

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

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

82 (a) The preferred site or alternative sites for the  
83 construction of any additional municipal solid waste management  
84 facilities needed to properly manage the quantities of municipal  
85 solid waste projected for the service areas covered by the plan,

86 including the factors which provided the basis for identifying the  
87 preferred or alternative sites; and

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

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

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

112 and municipalities within the boundaries of the authority or  
113 district.

114 (5) (a) Upon completion of its local nonhazardous solid  
115 waste management plan, the board of supervisors of the county  
116 shall publish in at least one (1) newspaper as defined in Section  
117 13-3-31, having general circulation within the county a public  
118 notice that describes the plan, specifies the location where it is  
119 available for review, and establishes a period of thirty (30) days  
120 for comments concerning the plan and a mechanism for submitting  
121 those comments. The board of supervisors shall also notify the  
122 board of supervisors of adjacent counties of the plan and shall  
123 make it available for review by the board of supervisors of each  
124 adjacent county. During the comment period, the board of  
125 supervisors of the county shall conduct at least one (1) public  
126 hearing concerning the plan. The board of supervisors of the  
127 county shall publish twice in at least one (1) newspaper as  
128 defined in Section 13-3-31, having general circulation within the  
129 county, a notice conspicuously displayed containing the time and  
130 place of the hearing and the location where the plan is available  
131 for review.

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

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

143           (6) Upon ratification of the plan, the governing body of the  
144 county, authority or district shall submit it to the commission  
145 for review and approval in accordance with Section 17-17-225. The  
146 commission shall, by order, approve or disapprove the plan within  
147 one hundred eighty (180) days after its submission. The  
148 commission shall include with an order disapproving a plan a  
149 statement outlining the deficiencies in the plan and directing the  
150 governing body of the county, authority or district to submit,  
151 within one hundred twenty (120) days after issuance of the order,  
152 a revised plan that remedies those deficiencies. If the governing  
153 body of the county, authority or district, by resolution, requests  
154 an extension of the time for submission of a revised plan, the  
155 commission may, for good cause shown, grant one (1) extension for  
156 a period of not more than sixty (60) additional days.

157           (7) After approval of the plan or revised plan by the  
158 commission, the governing body of the county, authority or  
159 district shall implement the plan in compliance with the  
160 implementation schedule contained in the approved plan.

161           (8) The governing body of the county, authority or district  
162 shall annually review implementation of the approved plan. The

163 commission may require the governing body of each local government  
164 or authority to revise the local nonhazardous solid waste  
165 management plan as necessary, but not more than once every five  
166 (5) years.

167 (9) If the commission finds that the governing body of a  
168 county, authority or district has failed to submit a local  
169 nonhazardous solid waste management plan, obtain approval of its  
170 local nonhazardous solid waste management plan or materially fails  
171 to implement its local nonhazardous solid waste management plan,  
172 the commission shall issue an order in accordance with Section  
173 17-17-29, to the governing body of the county, authority or  
174 district.

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

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

186 (12) If a public notice required in subsection (5) was  
187 published in a newspaper as defined in Section 13-3-31, having  
188 general circulation within the county but was not published in a

189 daily newspaper of general circulation as required by subsection  
190 (5) before April 20, 1993, the commission shall not disapprove the  
191 plan for failure to publish the notice in a daily newspaper. Any  
192 plan disapproved for that reason by the commission shall be deemed  
193 approved after remedying any other deficiencies in the plan.

194 (13) Notwithstanding any provision of this chapter, no solid  
195 waste management plan shall include a proposed new municipal solid  
196 waste landfill in any county that has two (2) or more existing  
197 permitted municipal solid waste landfills and such new landfill  
198 will be located within a five (5) mile radius of an existing  
199 municipal solid waste landfill, unless a referendum election has  
200 been conducted and approved pursuant to Section 17-17-237. This  
201 subsection (13) shall not apply to the proposed expansion or  
202 replacement of any permitted landfill by the permit holder, and  
203 shall not apply to any rubbish disposal facilities, transfer  
204 stations, land application sites, composting facilities, solid  
205 waste processing facilities, chipping/mulching facilities,  
206 industrial/institutional/special waste landfills,  
207 industrial/institutional/special waste rubbish sites, waste tire  
208 processing facilities, commercial waste tire collection sites,  
209 local government waste tire collection sites or generator waste  
210 tire collection sites, and none of those facilities, stations,  
211 landfills or sites shall be counted as a landfill within a county  
212 for the purpose of determining whether a referendum election is  
213 required to be conducted in the county as provided in this  
214 section.



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

217           17-17-229. (1) After approval of a local nonhazardous solid  
218 waste management plan by the commission, neither the department,  
219 the permit board nor any other agency of the State of Mississippi  
220 shall issue any permit, grant or loan for any nonhazardous solid  
221 waste management facility in a county, municipality region, or  
222 district which is not consistent with the approved local  
223 nonhazardous solid waste management plan.

224           (2) The commission shall adopt criteria to be considered in  
225 location and permitting of nonhazardous solid waste management  
226 facilities. The criteria shall be developed through public  
227 participation, shall be enforced by the permit board and shall  
228 include, in addition to all applicable state and federal rules and  
229 regulations, consideration of:

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

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

236                   (c) Land use factors, such as local land use, whether  
237 residential, industrial, commercial, recreational, agricultural,  
238 proximity to public water supplies, and proximity to incompatible  
239 structures such as schools, churches and airports;

240 (d) Transportation factors, such as proximity to waste  
241 generators and to population, route safety and method of  
242 transportation; and

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

245 (3) Notwithstanding any provision of this chapter, no solid  
246 waste management plan shall include a proposed new municipal solid  
247 waste landfill in any county that has two (2) or more existing  
248 permitted municipal solid waste landfills and such new landfill  
249 will be located within a five (5) mile radius of an existing  
250 municipal solid waste landfill, unless a referendum election has  
251 been conducted and approved pursuant to Section 17-17-237. This  
252 subsection (3) shall not apply to the proposed expansion or  
253 replacement of any permitted landfill by the permit holder, and  
254 shall not apply to any rubbish disposal facilities, transfer  
255 stations, land application sites, composting facilities, solid  
256 waste processing facilities, chipping/mulching facilities,  
257 industrial/institutional/special waste landfills,  
258 industrial/institutional/special waste rubbish sites, waste tire  
259 processing facilities, commercial waste tire collection sites,  
260 local government waste tire collection sites or generator waste  
261 tire collection sites, and none of those facilities, stations,  
262 landfills or sites shall be counted as a landfill within a county  
263 for the purpose of determining whether a referendum election is  
264 required to be conducted in the county as provided in this  
265 section.

266           **SECTION 3.** The following shall be codified as Section  
267 17-17-237, Mississippi Code of 1972:

268           17-17-237. (1) No new municipal solid waste landfill shall  
269 be incorporated into any solid waste management plan and no  
270 reference in any existing plan to any unpermitted new municipal  
271 solid waste landfill shall be effective, applicable or operative  
272 and no permit, grant or loan shall be approved for any new  
273 municipal solid waste landfill in any county that has two (2) or  
274 more existing permitted municipal solid waste landfills and such  
275 new landfill will be located within a five (5) mile radius of an  
276 existing municipal solid waste landfill, unless a local  
277 referendum election has been called and held in the county in  
278 which the new municipal solid waste landfill is proposed and with  
279 the results hereinafter provided. The board of supervisors may  
280 require the proponent of or applicant for the new municipal solid  
281 waste landfill to pay the costs of the election.

282           (2) Upon presentation and filing of a proper petition  
283 requesting same signed by at least twenty percent (20%) or  
284 fifteen hundred (1,500), whichever number is the lesser, of the  
285 qualified electors of the county, it shall be the duty of the  
286 board of supervisors to call an election at which there shall  
287 be submitted to the qualified electors of the county the  
288 question of whether or not the new municipal solid waste  
289 landfill proposed to be sited within the county shall be  
290 eligible for consideration by the board of supervisors for  
291 inclusion in the solid waste management plan of the county.

292 Such election shall be held and conducted by the county  
293 election commissioners on a date fixed by the order of the  
294 board of supervisors, which date shall not be more than sixty  
295 (60) days from the date of the filing of said petition. Notice  
296 thereof shall be given by publishing such notice once each week  
297 for at least three (3) consecutive weeks in some newspaper  
298 published in said county or, if no newspaper be published  
299 therein, by such publication in a newspaper in an adjoining  
300 county and having a general circulation in the county involved.  
301 The election shall be held not earlier than fifteen (15) days  
302 from the first publication of such notice.

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

314 (4) The election commissioners shall canvass and  
315 determine the results of the election, and shall certify same  
316 to the board of supervisors which shall adopt and spread upon  
317 its minutes an order declaring such results. If, in such

318 election, sixty percent (60%) of the qualified electors  
319 participating therein shall vote in favor of the proposition,  
320 inclusion of the proposed new municipal solid waste landfill in  
321 a solid waste management plan and permitting of such landfill  
322 may be approved provided that all other requirements of law are  
323 satisfied as to the landfill. If, on the other hand, sixty  
324 percent (60%) of the qualified electors participating therein  
325 shall not vote in favor of the proposition, the new landfill  
326 may not be included in any solid waste management plan and  
327 shall not be permitted. In either case, no further election  
328 shall be held in a county under the provisions of this section  
329 for a period of two (2) years from the date of the prior  
330 election and then only upon the filing of a petition requesting  
331 same signed by at least twenty percent (20%) or fifteen hundred  
332 (1,500), whichever number is the lesser, of the qualified  
333 electors of the county as is otherwise provided herein.

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

**Further, amend by striking the title in its entirety and  
inserting in lieu thereof the following:**

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 FIVE (5) MILE RADIUS OF AN EXISTING  
7 MUNICIPAL SOLID WASTE LANDFILL, UNLESS A REFERENDUM ELECTION HAS  
8 BEEN CONDUCTED AND APPROVED; TO AMEND SECTION 17-17-229,  
9 MISSISSIPPI CODE OF 1972, TO PROVIDE THAT A FACILITY PERMIT GRANT  
10 OR LOAN MAY NOT BE ISSUED BY ANY AGENCY OF THE STATE FOR ANY NEW

11 MUNICIPAL SOLID WASTE LANDFILL IF THE NEW LANDFILL IS LOCATED  
12 WITHIN A CERTAIN COUNTY HAVING TWO OR MORE EXISTING PERMITTED  
13 MUNICIPAL SOLID WASTE LANDFILLS AND SUCH NEW LANDFILL WILL BE  
14 LOCATED WITHIN FIVE (5) MILE RADIUS OF AN EXISTING MUNICIPAL SOLID  
15 WASTE LANDFILL, UNLESS A REFERENDUM HAS BEEN CONDUCTED AND  
16 APPROVED; TO CREATE NEW SECTION 17-17-237, MISSISSIPPI CODE OF  
17 1972, TO PROVIDE FOR THE REFERENDUM PROCESS; AND FOR RELATED  
18 PURPOSES.

SS08\HB949A.J

Eugene S. Clarke  
Secretary of the Senate