

**Adopted
COMMITTEE AMENDMENT NO 1 PROPOSED TO**

House Bill No. 949

BY: Committee

**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.

