

By: Senator(s) England, Jordan

To: Municipalities; County
Affairs

COMMITTEE SUBSTITUTE
FOR
SENATE BILL NO. 2856

1 AN ACT TO BRING FORWARD SECTIONS 19-5-105 AND 21-19-11,
2 MISSISSIPPI CODE OF 1972, WHICH ARE THE PROVISIONS THAT RELATE TO
3 COUNTIES AND MUNICIPALITIES CLEANING DILAPIDATED PROPERTY, FOR
4 PURPOSES OF POSSIBLE AMENDMENT; AND FOR RELATED PURPOSES.

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

6 **SECTION 1.** Section 19-5-105, Mississippi Code of 1972, is
7 brought forward as follows:

8 19-5-105. (1) To determine whether property or a parcel of
9 land located within a county is in such a state of uncleanliness
10 as to be a menace to the public health, safety and welfare of the
11 community, the board of supervisors of any county is authorized
12 and empowered to conduct a hearing on its own motion, or upon the
13 receipt of a petition requesting the board of supervisors to act
14 signed by a majority of the residents eighteen (18) years of age
15 or older, residing upon any street or alley, within reasonable
16 proximity of any property alleged to be in need of cleaning, or
17 within seven hundred fifty (750) feet of the precise location of
18 the alleged menace situated on any parcel of land which is located



19 in a populated area or in a housing subdivision and alleged to be
20 in need of cleaning.

21 Notice shall be provided to the property owner by:

22 (a) United States mail two (2) weeks before the date of
23 the hearing mailed to the address of the subject property and to
24 the address where the ad valorem tax notice for such property is
25 sent by the office charged with collecting ad valorem tax; and

26 (b) Posting notice for at least two (2) weeks before
27 the date of a hearing on the property or parcel of land alleged to
28 be in need of cleaning and at the county courthouse or another
29 place in the county where such notices are posted.

30 The notice required by this subsection (1) shall include
31 language that informs the property owner that an adjudication at
32 the hearing that the property or parcel of land is in need of
33 cleaning will authorize the board of supervisors to reenter the
34 property or parcel of land for a period of one (1) year after the
35 hearing without any further hearing, if notice is posted on the
36 property or parcel of land and at the county courthouse or another
37 place in the county where such notices are generally posted at
38 least seven (7) days before the property or parcel of land is
39 reentered for cleaning. A copy of the required notice mailed and
40 posted as required by this subsection (1) shall be recorded in the
41 minutes of the board of supervisors in conjunction with the
42 hearing required by this subsection.



43 If at such hearing the board of supervisors shall in its
44 resolution adjudicate such parcel of land in its then condition to
45 be a menace to the public health and safety of the community, the
46 board of supervisors may, if the owner not do so himself, proceed
47 to have the land cleaned by cutting weeds, filling cisterns, and
48 removing rubbish, dilapidated fences, outside toilets, dilapidated
49 buildings and other debris, and draining cesspools and standing
50 water. Thereafter, the board of supervisors may at its next
51 regular meeting by resolution adjudicate the actual cost of
52 cleaning the land and may also impose a penalty not to exceed One
53 Thousand Five Hundred Dollars (\$1,500.00) or fifty percent (50%)
54 of the actual cost, whichever is more. The cost and any penalty
55 shall become an assessment against the property. The "cost
56 assessed against the property" means either the cost to the county
57 of using its own employees to do the work or the cost to the
58 county of any contract executed by the county to have the work
59 done, and administrative costs and legal costs of the county.

60 A county may reenter the property or parcel of land to
61 maintain cleanliness without further notice of hearing no more
62 than six (6) times in any twelve-month period with respect to
63 removing dilapidated buildings, dilapidated fences and outside
64 toilets, and no more than twelve (12) times in any
65 twenty-four-month period with respect to cutting grass and weeds
66 and removing rubbish, personal property and other debris on the
67 land. The expense of cleaning the property shall not exceed an



68 aggregate amount of Twenty Thousand Dollars (\$20,000.00) per year,
69 or the fair market value of the property subsequent to cleaning,
70 whichever is less. The board of supervisors may assess the same
71 penalty each time the property or land is cleaned as otherwise
72 provided in this subsection (1).

73 The penalty provided in this subsection (1) shall not be
74 assessed against the State of Mississippi upon request for
75 reimbursement under Section 29-1-145, nor shall a county clean a
76 parcel owned by the State of Mississippi without first giving
77 notice.

78 The assessment authorized by this subsection (1) shall be a
79 lien against the property and may be enrolled in the office of the
80 circuit clerk of the county as other judgments are enrolled, and
81 the tax collector of the county shall, upon order of the board of
82 supervisors, proceed to sell the land to satisfy the lien as now
83 provided by law for the sale of lands for delinquent taxes.

84 Furthermore, the property owner whose land has been sold pursuant
85 to this subsection (1) shall have the same right of redemption as
86 now provided by law for the sale of lands for delinquent taxes.

87 All decisions rendered under the provisions of this subsection may
88 be appealed in the same manner as other appeals from county
89 boards.

90 (2) (a) If private property or a parcel of land located
91 within a county is a perpetual care cemetery subject to Section
92 41-43-1 et seq., the board of supervisors of the county may



93 proceed pursuant to the same provisions of subsection (1) of this
94 section used to determine whether a property is a public health
95 menace to instead determine if the perpetual care cemetery and all
96 structures on the cemetery are not being properly maintained and
97 have become detrimental to the public health and welfare. A
98 perpetual care cemetery that is "not being properly maintained and
99 has become detrimental to the public health and welfare" means a
100 perpetual care cemetery that shows signs of neglect, including,
101 without limitation, the unchecked growth of vegetation, repeated
102 and unchecked acts of vandalism, unusable entrances and exits,
103 excess rubbish or debris, or the disintegration of grave markers
104 or boundaries. Upon notice and opportunity to be heard as
105 provided in subsection (1) of this section, the board of
106 supervisors of the county may adjudicate the property or parcel of
107 land in its then condition to be not properly maintained and
108 detrimental to the public health and welfare, and if the owner
109 does not do so itself, may proceed to clean the property or parcel
110 of land as provided in subsection (1) of this section. When
111 cleaning the property or parcel of land of a perpetual care
112 cemetery pursuant to this subsection (2), the penalty or penalties
113 provided in subsection (1) of this section shall not be assessed
114 against owners of the perpetual care cemeteries.

115 (b) The board of supervisors of a county that cleans
116 property or parcel of land of a perpetual care cemetery pursuant
117 to this subsection (2) may make application to the Secretary of



118 State for an order directing the trustee of the perpetual care
119 cemetery trust fund to release accrued interest or principal of
120 the trust fund sufficient to reimburse the county for only the
121 actual cleanup costs incurred by the county. The application to
122 the Secretary of State shall include a statement by the county
123 that all of the requirements of this section have been met.

124 (c) If the Secretary of State is satisfied that the
125 notice and hearing requirements of this section have been met, and
126 that the application for an order directing the trustee to release
127 accrued interest of the perpetual care cemetery trust fund does
128 not threaten the ability of the trust fund to provide for the care
129 and maintenance of the cemetery, the Secretary of State may order
130 the trustee to release up to the total amount of accrued interest
131 of the trust fund in an amount sufficient to reimburse the county
132 for the actual costs of cleanup performed by the county.

133 (d) If the Secretary of State is satisfied that the
134 notice and hearing requirements of this section have been met, but
135 makes a determination that the accrued interest of the perpetual
136 care cemetery trust fund is insufficient to reimburse the county
137 for the actual costs of cleanup performed by the county, or that
138 an order to release accrued interest would threaten the ability of
139 the trust fund to provide for the care and maintenance of the
140 cemetery, the Secretary of State may consider an order directing
141 the trustee to reimburse the county from the principal of the
142 trust fund. If the Secretary of State determines that an order to



143 the trustee to release principal from the trust fund will not
144 threaten the solvency of the trust fund, the Secretary of State
145 may order the trustee to release principal of the trust fund in an
146 amount sufficient to reimburse the county for the actual costs of
147 cleanup performed by the county.

148 (i) The Secretary of State may not order the
149 trustee to release an amount of more than fifteen percent (15%) of
150 principal of the trust fund to reimburse the county for the actual
151 costs of cleanup performed by the county.

152 (ii) The provisions of this section may be
153 utilized no more than once in a four-year period.

154 **SECTION 2.** Section 21-19-11, Mississippi Code of 1972, is
155 brought forward as follows:

156 21-19-11. (1) To determine whether property or parcel of
157 land located within a municipality is in such a state of
158 uncleanliness as to be a menace to the public health, safety and
159 welfare of the community, a governing authority of any
160 municipality shall conduct a hearing, on its own motion, or upon
161 the receipt of a petition signed by a majority of the residents
162 residing within four hundred (400) feet of any property or parcel
163 of land alleged to be in need of the cleaning. Notice shall be
164 provided to the property owner by:

165 (a) United States mail two (2) weeks before the date of
166 the hearing mailed to the address of the subject property, except
167 where the land or structure(s) is apparently vacant, and to the



168 address where the ad valorem tax notice for such property is sent
169 by the office charged with collecting ad valorem tax; and

170 (b) Posting notice for at least two (2) weeks before
171 the date of a hearing on the property or parcel of land alleged to
172 be in need of cleaning and at city hall or another place in the
173 municipality where such notices are posted.

174 Any notice required by this section shall include language
175 that informs the property owner that an adjudication at the
176 hearing that the property or parcel of land is in need of cleaning
177 will authorize the municipality to reenter the property or parcel
178 of land for a period of two (2) years after final adjudication
179 without any further hearing if notice is posted on the property or
180 parcel of land and at city hall or another place in the
181 municipality where such notices are generally posted at least
182 seven (7) days before the property or parcel of land is reentered
183 for cleaning. A copy of the required notice mailed and posted as
184 required by this section shall be recorded in the minutes of the
185 governing authority in conjunction with the hearing required by
186 this section.

187 If, at such hearing, the governing authority shall adjudicate
188 the property or parcel of land in its then condition to be a
189 menace to the public health, safety and welfare of the community,
190 the governing authority, if the owner does not do so himself,
191 shall proceed to clean the land, by the use of municipal employees
192 or by contract, by cutting grass and weeds; filling cisterns;



193 securing abandoned or dilapidated buildings; removing rubbish,
194 abandoned or dilapidated fences, outside toilets, abandoned or
195 dilapidated buildings, slabs, personal property, which removal of
196 personal property shall not be subject to the provisions of
197 Section 21-39-21, and other debris; and draining cesspools and
198 standing water therefrom. The governing authority may by
199 resolution adjudicate the actual cost of cleaning the property and
200 may also impose a penalty not to exceed One Thousand Five Hundred
201 Dollars (\$1,500.00) or fifty percent (50%) of the actual cost,
202 whichever is more. The cost and any penalty may become a civil
203 debt against the property owner, and/or, at the option of the
204 governing authority, an assessment against the property. The
205 "cost assessed against the property" means either the cost to the
206 municipality of using its own employees to do the work or the cost
207 to the municipality of any contract executed by the municipality
208 to have the work done, and administrative costs and legal costs of
209 the municipality. For subsequent cleaning within the one-year
210 period after the date of the hearing at which the property or
211 parcel of land was adjudicated in need of cleaning, upon seven (7)
212 days' notice posted both on the property or parcel of land
213 adjudicated in need of cleaning and at city hall or another place
214 in the municipality where such notices are generally posted, and
215 consistent with the municipality's adjudication as authorized in
216 this subsection (1), a municipality may reenter the property or
217 parcel of land to maintain cleanliness without further notice or



218 hearing no more than six (6) times in any twelve-month period with
219 respect to removing or securing abandoned or dilapidated
220 buildings, slabs, dilapidated fences and outside toilets, and no
221 more than twelve (12) times in any twenty-four-month period with
222 respect to cutting grass and weeds and removing rubbish, personal
223 property and other debris on the land, and the expense of cleaning
224 of the property, except as otherwise provided in this section for
225 removal of hazardous substances, shall not exceed an aggregate
226 amount of Twenty Thousand Dollars (\$20,000.00) per year, or the
227 fair market value of the property subsequent to cleaning,
228 whichever is more. The aggregate cost of removing hazardous
229 substances will be the actual cost of such removal to the
230 municipality and shall not be subject to the cost limitations
231 provided in this subsection. The governing authority may assess
232 the same penalty for each time the property or land is cleaned as
233 otherwise provided in this section. The penalty provided herein
234 shall not be assessed against the State of Mississippi upon
235 request for reimbursement under Section 29-1-145, nor shall a
236 municipality clean a parcel owned by the State of Mississippi
237 without first giving notice. Upon written authority from the
238 Secretary of State's office, for state-owned properties, a
239 municipality may forgo the notification process that is prescribed
240 in this subsection and proceed to clean the properties and assess
241 costs as prescribed in this subsection, except that penalties
242 shall not be assessed against the State of Mississippi.



243 (2) When the fee or cost to clean property or a parcel of
244 land that is one (1) acre or less does not exceed Two Hundred
245 Fifty Dollars (\$250.00), excluding administrative costs, and the
246 property or parcel is located within a municipality having a
247 population over one thousand five hundred (1,500), the governing
248 authority of the municipality may authorize one or more of its
249 employees to determine whether the property or parcel of land is
250 in such a state of uncleanliness as to be a menace to the public
251 health, safety and welfare of the community and the determination
252 made by the authorized municipal employee shall be set forth and
253 recorded in the minutes of the governing authority. Notice of
254 this determination shall be provided to the property owner by:

255 (a) United States mail seven (7) days before the date
256 of cleaning of the property or parcel of land mailed to the
257 address of the subject property, except where the land or
258 structure(s) is apparently vacant, and to the address where the ad
259 valorem tax notice for such property is sent by the office charged
260 with collecting ad valorem tax; and

261 (b) Posting notice for at least seven (7) days before
262 the cleaning of the property or parcel of land and at city hall or
263 another place in the municipality where such notices are posted.

264 Any notice required by this subsection shall include language
265 that informs the property owner that the appropriate municipal
266 official has determined that the property or parcel of land is a
267 menace to the public health, safety and welfare of the community



268 and in need of cleaning and the municipality is authorized to
269 enter the property for cleaning and that the municipality is
270 further authorized to reenter the property or parcel of land for a
271 period of two (2) years after this cleaning without any further
272 hearing or action if notice is posted on the property or parcel of
273 land and at city hall or another place in the municipality where
274 such notices are generally posted at least seven (7) days before
275 the property or parcel of land is reentered for cleaning. A copy
276 of the required notice mailed and posted as required by this
277 subsection shall be recorded in the minutes of the governing
278 authority in conjunction with the determination made by the
279 municipal employee in this subsection (2).

280 If an authorized municipal employee determines that the
281 condition of property or parcel of land is a menace to the public
282 health, safety and welfare of the community, the governing
283 authority, if the owner does not do so himself, shall proceed to
284 clean the land, by the use of municipal employees or by contract,
285 by cutting grass and weeds; filling cisterns; securing abandoned
286 or dilapidated buildings; removing rubbish, abandoned or
287 dilapidated fences, outside toilets, abandoned or dilapidated
288 buildings, slabs, personal property, which removal of personal
289 property shall not be subject to the provisions of Section
290 21-39-21, and other debris; and draining cesspools and standing
291 water therefrom. The governing authority shall by resolution
292 adjudicate the actual cost of cleaning the property under this



293 provision, provided the same does not exceed Two Hundred Fifty
294 Dollars (\$250.00) and may also impose a penalty not to exceed One
295 Hundred Dollars (\$100.00) or one hundred percent (100%) of the
296 actual cost of cleaning the property, whichever is more. The cost
297 and any penalty imposed may become a civil debt against the
298 property owner, and/or, at the option of the governing authority,
299 an assessment against the property. The "cost assessed against
300 the property" means either the cost to the municipality of using
301 its own employees to do the work or the cost to the municipality
302 of any contract executed by the municipality to have the work
303 done, and additionally may include administrative costs of the
304 municipality not to exceed Fifty Dollars (\$50.00). For subsequent
305 cleaning within the one-year period set forth in this subsection
306 (2), upon seven (7) days' notice posted both on the property or
307 parcel of land adjudicated in need of cleaning and at city hall or
308 another place in the municipality where such notices are generally
309 posted, and consistent with the municipal official's determination
310 as authorized in this subsection (2), a municipality may reenter
311 the property or parcel of land to maintain cleanliness without
312 further notice or hearing under this subsection (2) no more than
313 six (6) times in any twelve-month period with respect to removing
314 or securing abandoned or dilapidated buildings, slabs, dilapidated
315 fences and outside toilets, and no more than twelve (12) times in
316 any twenty-four-month period with respect to cutting grass and
317 weeds and removing rubbish, personal property and other debris on



318 the land, and the expense of cleaning of the property shall not
319 exceed an aggregate amount of One Thousand Dollars (\$1,000.00) per
320 year under this subsection (2). The governing authority may
321 assess the same actual costs, administrative costs and penalty for
322 each time the property or land is cleaned as otherwise provided in
323 this subsection (2). The penalty provided herein shall not be
324 assessed against the State of Mississippi upon request for
325 reimbursement under Section 29-1-145, nor shall a municipality
326 clean a parcel owned by the State of Mississippi without first
327 giving notice. Upon written authority from the Secretary of
328 State's office, for state-owned properties, a municipality may
329 forgo the notification process that is prescribed in this
330 subsection and proceed to clean the properties and assess costs as
331 prescribed in this subsection, except that penalties shall not be
332 assessed against the State of Mississippi. A determination made
333 by an appropriate municipal employee under this subsection (2)
334 that the state or condition of property or a parcel of land is a
335 menace to the public health, safety and welfare of the community
336 shall not subsequently be used to replace a hearing if subsection
337 (1) of this section is later utilized by a municipality when the
338 prerequisites of this subsection (2) are not satisfied.

339 (3) If the governing authority declares, by resolution, that
340 the cost and any penalty shall be collected as a civil debt, the
341 governing authority may authorize the institution of a suit on
342 open account against the owner of the property in a court of



343 competent jurisdiction in the manner provided by law for the cost
344 and any penalty, plus court costs, reasonable attorney's fees and
345 interest from the date that the property was cleaned.

346 (4) (a) If the governing authority declares that the cost
347 and any penalty shall be collected as an assessment against the
348 property, then the assessment above provided for shall be a lien
349 against the property and may be enrolled in the office of the
350 chancery clerk of the county as other liens and encumbrances are
351 enrolled, and the tax collector of the municipality shall, upon
352 order of the board of governing authorities, proceed to sell the
353 land to satisfy the lien as now provided by law for the sale of
354 lands for delinquent municipal taxes. The lien against the
355 property shall be an encumbrance upon the property and shall
356 follow title of the property.

357 (b) (i) All assessments levied under the provisions of
358 this section shall be included with municipal ad valorem taxes and
359 payment shall be enforced in the same manner in which payment is
360 enforced for municipal ad valorem taxes, and all statutes
361 regulating the collection of other taxes in a municipality shall
362 apply to the enforcement and collection of the assessments levied
363 under the provisions of this section, including utilization of the
364 procedures authorized under Sections 17-13-9(2) and 27-41-2.

365 (ii) All assessments levied under the provisions
366 of this section shall become delinquent at the same time municipal
367 ad valorem taxes become delinquent. Delinquencies shall be



368 collected in the same manner and at the same time delinquent ad
369 valorem taxes are collected and shall bear the same penalties as
370 those provided for delinquent taxes. If the property is sold for
371 the nonpayment of an assessment under this section, it shall be
372 sold in the manner that property is sold for the nonpayment of
373 delinquent ad valorem taxes. If the property is sold for
374 delinquent ad valorem taxes, the assessment under this section
375 shall be added to the delinquent tax and collected at the same
376 time and in the same manner.

377 (5) All decisions rendered under the provisions of this
378 section may be appealed in the same manner as other appeals from
379 municipal boards or courts are taken. However, an appeal from a
380 decision of a municipal officer or official shall be made to the
381 governing authority and such appeal shall be in writing, state the
382 basis for the appeal and be filed with the city clerk no later
383 than seven (7) days from the latest date of notice required under
384 this section.

385 (6) Nothing contained under this section shall prevent any
386 municipality from enacting criminal penalties for failure to
387 maintain property so as not to constitute a menace to public
388 health, safety and welfare.

389 (7) (a) If private property or a parcel of land located
390 within a municipality is a perpetual care cemetery subject to
391 Section 41-43-1 et seq., the governing authority of the
392 municipality may proceed pursuant to the same provisions of this



393 section used to determine whether a property is a public health
394 menace to instead determine if the perpetual care cemetery and all
395 structures on the cemetery are not being properly maintained and
396 have become detrimental to the public health and welfare. A
397 perpetual care cemetery that is "not being properly maintained and
398 has become detrimental to the public health and welfare" means a
399 perpetual care cemetery that shows signs of neglect, including,
400 without limitation, the unchecked growth of vegetation, repeated
401 and unchecked acts of vandalism, unusable entrances and exits,
402 excess rubbish or debris, or the disintegration of grave markers
403 or boundaries. Upon notice and opportunity to be heard as
404 provided in subsection (1) of this section, the governing
405 authority of the municipality may adjudicate the property or
406 parcel of land in its then condition to be not properly maintained
407 and detrimental to the public health and welfare, and if the owner
408 does not do so itself, may proceed to clean the property or parcel
409 of land as provided in subsection (1) of this section. When
410 cleaning the property or parcel of land of a perpetual care
411 cemetery pursuant to this subsection (7), the penalty or penalties
412 provided in subsection (1) of this section shall not be assessed
413 against owners of the perpetual care cemeteries.

414 (b) The governing authority of a municipality that
415 cleans the property or parcel of land of a perpetual care cemetery
416 pursuant to this subsection (7) may make application to the
417 Secretary of State for an order directing the trustee of the



418 perpetual care cemetery trust fund to release accrued interest or
419 principal of the trust fund sufficient to reimburse the
420 municipality for only the actual cleanup costs incurred by the
421 municipality. The application to the Secretary of State shall
422 include a statement by the municipality that all of the
423 requirements of this section have been met.

424 (c) If the Secretary of State is satisfied that the
425 notice and hearing requirements of this section have been met, and
426 that the application for an order directing the trustee to release
427 accrued interest of the perpetual care cemetery trust fund does
428 not threaten the ability of the trust fund to provide for the care
429 and maintenance of the cemetery, the Secretary of State may order
430 the trustee to release accrued interest of the trust fund
431 sufficient to reimburse the municipality for the actual costs of
432 cleanup performed by the municipality.

433 (d) If the Secretary of State is satisfied that the
434 notice and hearing requirements of this section have been met, but
435 makes a determination that the accrued interest of the perpetual
436 care cemetery trust fund is insufficient to reimburse the
437 municipality for the actual costs of cleanup performed by the
438 municipality, or that an order to release accrued interest would
439 threaten the ability of the trust fund to provide for the care and
440 maintenance of the cemetery, the Secretary of State may consider
441 an order directing the trustee to reimburse the municipality from
442 the principal of the trust fund. If the Secretary of State



443 determines that an order to the trustee to release principal from
444 the trust fund will not threaten the solvency of the trust fund,
445 the Secretary of State may order the trustee to release principal
446 of the trust fund in an amount sufficient to reimburse the
447 municipality for the actual costs of cleanup performed by the
448 municipality.

449 (i) The Secretary of State may not order the
450 trustee to release an amount of more than fifteen percent (15%) of
451 principal of the trust fund to reimburse the municipality for the
452 actual costs of cleanup performed by the municipality.

453 (ii) The provisions of this section may be
454 utilized no more than once in a four-year period.

455 **SECTION 3.** This act shall take effect and be in force from
456 and after July 1, 2024, and shall stand repealed on June 30, 2024.

